THE FIGHT FOR HEALTHCARE REFORM

THE Nation.

IF WE FAIL

DISPATCHES FROM THE CLIMATE SUMMIT

NAOMI KLEIN

MARK HERTSGAARD

JANUARY 4, 2010
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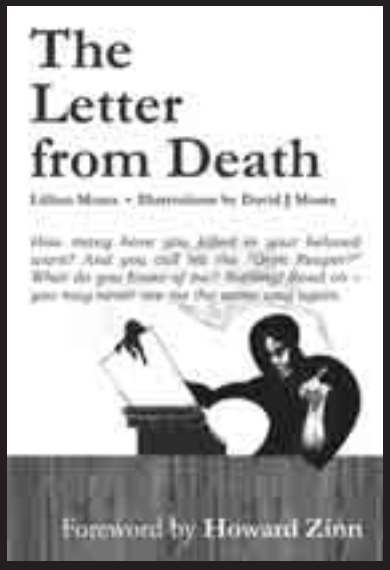

"Moats uses death not as a threat, but as a prism through which to examine the most profound questions that confront the human race today."

— Howard Zinn

The Letter from Death

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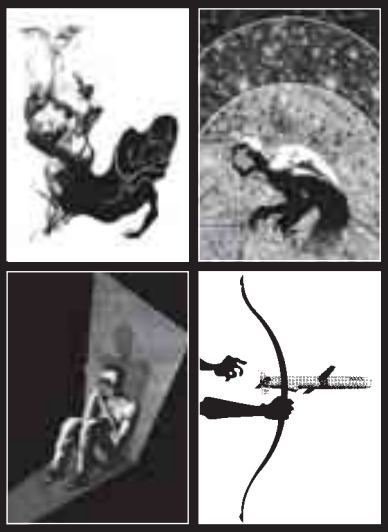

Letters

Adieu, Swank Filer!

PULLMAN, WASH.
I have just entered my last letter into an original Frank W. Lewis crossword puzzle. I wanted him to know how much I, and obviously many others, have enjoyed his challenges over the years. *The Nation* will be hard-pressed to find someone with his ingenuity and wit to fill the slot. Mr. Lewis, you will be missed ["Noted," Dec. 14].
SALLY HORTON

Insinuations, Misconceptions Challenged

KABUL, AFGHANISTAN
"How the US Funds the Taliban," by Aram Roston [Nov. 30], puts forward unrelated insinuation instead of journalistic integrity in order to bring disrepute to legitimate and successful Afghan-owned companies. Watan Group is proud of its accomplishments, its record and its code of conduct. We categorically challenge this article—its accuracy, integrity and the depth of Roston's knowledge of Afghan culture, political reality and security threats. We believe he is blindly misguided by local business rivalries or disgruntled Watan ex-employees. Below is our counter to the author's allegations:

§ The owners of Watan Group, Ahmad Rateb Popal and Rashid Popal, belong to one of the proud Mujahid families that courageously fought against the threat of communism and the Soviet invasion. The price the family paid for their outstanding bravery was the most devastating blow to their lives and fortunes. All their property and businesses were confiscated by the communist government in early 1979.

After the tragic loss of my father, I joined the mujahedeen at the age of 16. As a result, in a bomb blast during the first armed uprising in Kabul I lost my left hand, an eye and three fingers of my right hand and sustained numerous bodily injuries.

In July 1988 by ignorance of consequences and cultural unawareness, I made a horrendous lapse in judgment and was found guilty of conspiracy to import a controlled substance into the United States. I spent nine years behind bars and paid my dues to the US government and people. Neither I nor my family ever concealed this dark fact. Since my release I have never conducted or conspired to enter into any illegitimate business activities.

§ When I returned to Afghanistan in 1998, the Taliban ruled and the country was in its darkest economic era. I managed to establish a legitimate business enterprise with a number of successful and well-reputed businessmen there. Since business and politics go hand in hand in all countries in the world, I befriended Mullah Abdul Salam Zaeef, who was deputy minister of mines and industries until 2001, when he became the Taliban ambassador to Pakistan. This relationship never went beyond personal friendship. During one of his post-9/11 press conferences, the ambassador's translator was absent. He requested that I translate at his conference. Since the reporters did not recognize me, misconceptions about who I am were created. I never joined the Taliban movement, never worked for their government and never represented them in any official capacity.

§ No Watan Group company owes its rise to success to any favor based on kinship or allegiance to President Hamid Karzai. In fact, in numerous ventures the president dealt very unfairly with us and caused us tremendous monetary and reputational damage. We have never approached the president, his office or anyone in his cabinet to render us favors or grant contracts. We have worked hard and played fair to achieve the level of success we have attained today. Watan's success is purely based on our merit and not the cronyism or nepotism that Roston claims.

§ Watan Group has never paid, nor will it pay, any insurgent or Taliban groups for protection or favoritism to allow movement of its convoys in any part of Afghanistan. We secure our convoys by the bravery of our men and protect them by the blood of our soldiers. Each month Watan loses, on average, fifty men who guard its clients and their cargo. We do not fund terrorism; we

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since 1865

Gaming Healthcare

One year after Democrats earned a mandate from the American people to deliver far-reaching healthcare reform, they are tinkering around the edges of—and in some cases reinforcing—the broken system that voters elected them to replace. It's not just that top Democrats have abandoned the Medicare for All approach, about which Barack Obama said during the 2008 campaign, "If I were designing a system from scratch, I would probably go ahead with a single-payer system." With his rejection of modest proposals for a public option and a lowered eligibility age for Medicare, Senate majority leader Harry Reid seems to have abandoned healthcare reform. The legislation he now seems willing to settle for is, at best, an attempt to impose a measure of responsibility on an insurance industry that has gamed the system for decades.

EDITORIAL

Yes, as Democrat Tom Harkin says, there's still "good stuff in this bill." Tens of millions of uninsured Americans could gain basic coverage. And while the Senate measure is again being rewritten as *The Nation* goes to press, it will in all likelihood attempt to regulate the worst insurance abuses and add new preventive-care mandates for women. But if the bill advances in the form accepted by Reid and the White House, champagne corks will be popping in the offices of insurance company CEOs. Without competition from a public option or an expanded Medicare program, Big Insurance stands to reap what former insurance exec Robert Laszewski calls "a bonanza." How could they ask for more? They'll get a plan that steers millions of new customers their way while providing government subsidies to pay premiums set by the industry.

The promise of reform has always been that Americans can have better—and universal—healthcare at lower cost. If the public option and Medicare expansion are dropped, and if schemes to pay for the proposal with Medicare and Medicaid "cost containment" are retained, the Senate legislation will break that promise.

Obama and key Congressional leaders appear to be more determined to get a bill, any bill, than to enact fundamental reform. The president's failure even to mention the public option when he lobbied Senate Democrats empowered Joe Lieberman and others who were angling for its elimination. And Obama's failure to use his bully pulpit was matched by Reid's compromises and missteps. When the majority leader embraced rules that require sixty votes to act—rather than challenge the rules directly or via budget reconciliation procedures that allow a simple majority—he ceded authority to insurance-industry shills like Lieberman and Ben Nelson, who then blocked reform at every turn.

At this late yet critical stage, Congressional progressives must push back. Compromise is inevitable. The hard question is whether it opens the door to progress or closes it. In a Washington increasingly fixated on deficit reduction and entitlement cuts, a bill with neither a public option nor Medicare expansion could be disastrous.

As a conference committee sets out to merge House and Senate bills, progressives should declare that they will not back a bill that enriches insurers while raiding the treasury and squeezing existing federal programs. They should argue more aggressively than ever for real competition—ideally in the form of a public option but at least with Medicare expansion. That, after all, is what they promised Americans in 2008.

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This week at TheNation.com

News & Analysis

Rachel Roth: Pregnant, in prison and denied care

Laura Carlsen: Sham elections in Honduras

Antony Loewenstein: Australia snubs Tamil refugees

Blogs Editor's Cut: A modest proposal to save the states

John Nichols: Breaking news on healthcare reform

Video What Christopher Hayes would say to Joe Lieberman

A Planetary Movement

Copenhagen

"The future of the world is being decided here over the next few days," said Mary Robinson, former president of Ireland, as she addressed the huge demonstration at the climate change summit in Copenhagen. The rally here was but one of thousands of mass actions held around the world on December 12 to pressure President Obama, Chinese Premier Wen Jiabao and the 115 other heads of state and government soon to arrive for the conclusion of the United Nations–sponsored summit. As the final days of negotiations approached there was, as always with climate change, plenty of troubling news. But there was also an unmistakable, perhaps game-changing, sign of hope. For the Copenhagen summit witnessed the coming of age of a genuine global and surprisingly muscular mass movement on behalf of climate action. Diverse, youthful and unafraid to demand the supposedly impossible, this new climate movement is a force that governments, corporations and other powerful institutions seem destined to reckon with for years to come as the fight to preserve a livable planet enters the post-Copenhagen era.

COMMENT

Activists throughout the world have been calling for strong climate action ever since the UN Earth Summit in 1992, but never has civil society, including the media, been half as visible or influential as it has been at Copenhagen. Even the bleary-eyed delegates cocooned in the Bella Center—the vast complex ringed by security forces where the negotiations have taken place—could not escape the movement's insistence on action *now*. The halls of the Bella Center have been almost uncomfortably crowded with journalists and activists of countless ethnicities and backgrounds, while in the streets pedestrians are confronted by a dazzling variety of posters, lighted signs and slick advertisements urging change. Contrary to many news reports, 99.9 percent of the activists have been nonviolent. Their demonstrations were motivated mainly by anger that governments are falling catastrophically short of what needs doing.

Most striking of all has been the movement's success at putting a key demand—reducing the amount of carbon dioxide in the atmosphere to 350 parts per million (ppm)—squarely on the public agenda. The turning point came a day before the December 12 demonstrations, when the thirty-nine nations of the Alliance of Small Island States offered a draft treaty that explicitly embraced the 350 target. Within days, according to Jamie Henn of the activist group 350.org, the 350 target was endorsed by more than 100 countries, nearly all of them ranking among the poor and island nations that are already suffering from sea-level rise, drought and other intensifying impacts of climate change. Reducing atmospheric CO_2 concentrations to 350 ppm is, in turn, aimed at limiting the earth's eventual global temperature rise to 1.5 degrees Celsius above preindustrial levels. "The idea," Mohamed Nasheed, the first democratically elected president of Maldives, the low-lying island nation in the Indian Ocean, told me, "is that people will agree not to murder others. Anything above 1.5C, and we [in Maldives] have had it."

Often derided as politically naïve and economically disas-

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Noted.

A GAY TIDE: Voters in many parts of the country are still struggling with the notion that same-sex couples should enjoy the same rights as other Americans, but they don't seem to have any problem being governed by gays and lesbians. The same November election in which Maine voters overturned that state's marriage equality law by a 53–47 margin also saw more than sixty openly gay and lesbian candidates win elections for posts ranging from mayor of Chapel Hill, North Carolina, to Detroit City Council president.

Over the course of the following month, even as New York State legislators rejected same-sex marriage and the DC City Council voted to legalize it (setting up a wrestling match with Congressional conservatives), Georgia voters elected the country's first openly lesbian African-American state legislator (**Simone Bell**); Broward County, Florida, became the largest jurisdiction to be governed by an out gay man (when county commissioner **Ken Keechl** took over as mayor); and the Democratic majority in California's Assembly chose an openly gay man as its candidate for speaker (**John Perez**).

Then came the really big news. After an ugly campaign in which social conservatives tried to stir antigay sentiment, Houston's lesbian city controller, **Annise Parker**, was elected mayor of the nation's fourth-largest city. Gay & Lesbian Victory Fund president **Chuck Wolfe** got it right when he said, "This is a watershed moment in American politics. Annise was elected by fair-minded people from across the city because of her experience and competence, and we're glad Houston soundly rejected the politics of division. This victory sends a clear signal that gays and lesbians are an integral part of American civic life." JOHN NICHOLS

THE REVOLUTION WILL BE TELEVISED: The first time **Howard Zinn**'s now-classic book *A People's History of the United States* appeared on TV was in HBO's *The Sopranos*, when Tony's teenage son, A.J., came home from school with a copy of the book and told his parents that, according to Zinn, Christopher Columbus was a slaveowner and murderer. Tony angrily replied, "In this house Columbus is a hero. End of story!"

That was 1999. On December 13 Zinn's *The People Speak*—the documentary inspired by his books—premiered on the History Channel. The documentary "gives voice to those who spoke up for social change throughout US history," says **Anthony Arnove**, who produced and co-directed the show.

The History Channel is best known for World War II documentaries, which has earned it the nickname "the Hitler channel." *The People Speak* made it onto this unlikely site apparently because of the irresistible actors who appear in the documentary, including **Matt Damon**, **Josh Brolin**, **Danny Glover**, **Marisa Tomei**, **Morgan Freeman** and **Sandra Oh**, along with musical performances by **Bob Dylan**, **Bruce Springsteen** and **Eddie Vedder**, among others.

My favorites from the documentary include Malcolm X's "Message to the Grass Roots," from 1963 ("America's problem is us. We're her problem.") and Frederick Douglass's 1857 words, read by **Don Cheadle** ("Power concedes nothing without a demand").

"We wanted to choose words that had some meaning today," Zinn told me. "Not from Supreme Court decisions or presidential speeches, but from some people you've never heard of."

There's also a soundtrack on CD, and a big website with video and a classroom study guide. A DVD will be out in January. The *People's History* book, meanwhile, has now sold 2 million copies.

And the Columbus part that got Tony Soprano mad? It's in the documentary—an excerpt from Spanish priest Bartolomé de las Casas's *The Devastation of the Indies: A Brief Account*, read by **Viggo Mortensen**. JON WIENER

ANOTHER MEDIA CASUALTY? **Editor & Publisher** might be the most important publication you've never heard of. I knew little of the magazine's 125-year history of reporting on the newspaper industry until I interned there in the winter of 2002-03. *E&P*'s editor, **Greg Mitchell**, told me then that he wanted to scrutinize the media's shoddy coverage of the impending war in Iraq—particularly the cheerleading agitprop of major news organizations. *E&P*'s small staff in Lower Manhattan became a crack fact-checking and watchdog crew, asking the tough questions that so few in Washington asked, shining a spotlight on the early dissenters such as **Knight Ridder**'s Washington bureau and highlighting the views of editorial pages—some of which were surprisingly skeptical—across the country. I remember Mitchell reading the antiwar editorials of the **Orange County Register**, a bastion of right-wing Republicanism, with a keen eye and wonder. The magazine won a **Neal Award**—"the Pulitzer Prize of business journalism"—three years in a row for its Iraq coverage.

So Mitchell described it as quite a "shock" to learn, on December 10, that the **Nielsen Company** was immediately closing *E&P*—seemingly yet another casualty of the industry it so dutifully covered. But maybe this sad story will still have a happy ending. Based on "overwhelming reader and advertiser demand" in the wake of the surprise announcement, Mitchell said the staff planned to publish another issue on January 4 and hoped to strike a deal with Nielsen or find a new buyer. Let's hope they can. On Iraq and many other issues, history will look kindly on *E&P*. May its indispensable reporting, in one form or another, live on. ARI BERMAN

TEGUCIGALPA IS BURNING: In early December **Walter Tróchez**, a Honduran AIDS and gay rights activist, reported to authorities that four armed men had attempted to abduct him. The kidnappers beat Tróchez, an active resister of the Honduran coup regime, and told him that they were going to kill him.

Tróchez escaped that day, but on the night of December 14 someone returned to finish the job—fatally shooting Tróchez in the chest. Since the June 28 military-religious coup, at least seven and as many as sixteen LGBT people have been killed; the state has yet to investigate whether these murders were politically or homophobically motivated, despite pleas from local activists and human rights groups. Indeed, just weeks before Tróchez was murdered, he wrote an e-mail describing the escalation of violence against LGBT people, an English-language version of which can be found on *The Nation*'s website. Tróchez was 27. RICHARD KIM

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trous, the 350 target is nevertheless scientifically compelling (as evidenced by the personal endorsement it got from Rajendra Pachauri, chair of the often conservative Intergovernmental Panel on Climate Change, and Lord Nicholas Stern, former chief economist of the World Bank). Author Bill McKibben, a chief organizer of the December 12 day of actions, notes in the latest *Mother Jones* that already, with CO_2 levels at 387 ppm, glaciers are melting, drought is becoming endemic across the US Southwest and deluges like the record 2006 rains in India are worsening. He then asks, "You really want to go for 450?"

But there is no denying that returning to 350 ppm will require truly radical cuts in future emissions, as well as massive efforts to remove CO_2 already in the atmosphere, through growing trees and other "carbon negative" practices. And it is hard to overstate how unwelcoming the big emitter nations are to such talk. The main resistance comes from the United States and the other rich industrial countries, whose emissions over the past 200 years caused global warming. But China, now the world's largest emitter on an annual basis, is also strongly opposed. Indeed, at press time, the fate of the Copenhagen talks appeared to rest on whether the two climate superpowers, China and America, could impose their will on emissions cuts on the rest of the world. Representatives of developing and island nations say their governments have been under intense pressure from the two superpowers; China, for example, has reportedly offered to build hospitals and schools in Burundi if that East African nation will fall in line.

The vast gap between rich and poor is also reflected in the rancorous debate over climate aid. The European Union has endorsed or offered almost $11 billion over the next three years to help developing countries shift to green technologies and adapt to the inevitable impacts of climate change. Developing countries and activist groups have denounced this as a shameful pittance. They point out that even the World Bank, an institution dominated by the rich industrial powers, has estimated that developing nations will need $75 billion to $100 billion a year to cope with climate change. Lumumba Stanislaus Di-Aping, the Sudanese diplomat who chairs the developing nations Group of 77, complained of the proposed $10 billion, "[That] is not enough to buy the coffins to bury us."

With the closing days of the summit just ahead, all eyes are on Obama. The president appears to remain very popular internationally, and people understand the opposition he faces in Congress. But if he and his fellow world leaders fail to reach a fair, ambitious and binding agreement in Copenhagen, the global reaction is likely to be swift, harsh and enduring. A mass climate movement has come of age, and it won't take No We Can't for an answer.

MARK HERTSGAARD

Mark Hertsgaard (markhertsgaard.com), The Nation's environment correspondent, is the author of the forthcoming Generation Hot: Living Through the Storm of Climate Change.

Calvin Trillin, Deadline Poet

Blackwater, Blackwater

(Sung by the CIA Chorus to the tune of "Matchmaker, Matchmaker")

BLACKWATER GUARDS TIED TO SECRET RAIDS BY C.I.A.
—headline in the *New York Times*

Blackwater, Blackwater,
You've got the knack.
Let's snatch and grab
All through Iraq.
Blackwater, Blackwater,
Earn lots of jack
By joining us in the attack.

Reports we simply can fake up.
Who cares for the laws we may flout?
The rules are our rules to make up,
So some dirty business is contracted out.

Blackwater, Blackwater,
No one keeps track.
Let's snatch and grab.
Let's take a crack.
Blackwater, Blackwater,
Smack bad guys back
In ops that are Blackwater black.

Peace and War in Oslo

COMMENT

President Obama displayed his usual rhetorical brilliance in Oslo and acknowledged important principles of peace and nonviolence. But his speech gave a distorted view of America's role in the world and reflected a shallow understanding of the concept of just war.

The president asserted that US military power has helped to "underwrite global security." I almost choked on that line. I thought I heard him say "undermine," which would have been more accurate. Many of Washington's misadventures have eroded global security—Vietnam, the wars in Central America, the invasion of Iraq, to name just a few. Millions of people have died and many continue to suffer because of unjust and illegal American military interventions.

The president claimed that the United States "has never fought a war against a democracy." But he failed to mention that CIA operations have subverted democracy and overthrown le-

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gitimately elected governments in Iran (1953), Guatemala (1954), Chile (1973) and other countries. Our closest friends, he said, "are governments that protect the rights of their citizens." Is he referring to our "friends" in Saudi Arabia, Egypt and Pakistan?

The president invoked the concept of just war and identified a few of its ethical criteria—just cause, last resort, proportionality—but he failed to mention the most important principle, the presumption against the use of force. The principles of justice begin with the assumption that war is almost always unjust and can be warranted only under the most dire circumstances, and only if strict ethical criteria are satisfied.

Conspicuously missing was any mention of the ethical standard of "probability of success." Military power should not be used in a futile cause or in circumstances where disproportionate force may be needed to succeed. The prospects of the United States prevailing in a prolonged counterinsurgency war against the Taliban are highly uncertain. Afghanistan's reputation as the graveyard of empires is well earned, derived from a long history of fierce resistance to foreign intervention. Are we so certain of military victory, however that might be defined, that we are justified in unleashing the destruction of war?

The president said that when force is used civilians should be "spared from violence." True, but how does that square with his administration's increasing use of remote-controlled drone airstrikes in Pakistan? According to the Congressional testimony of former Pentagon adviser David Kilcullen, from 2006 through early 2009 these strikes killed many more civilians than militants. Other studies of the "drone war" have reported different numbers, but all find that many civilians are being killed in these attacks. These strikes "are deeply aggravating to the population," said Kilcullen, and have "given rise to a feeling of anger that coalesces the population around the extremists and leads to spikes of extremism."

The president asserted that the cause of preventing terrorist strikes is just. True again, but that does not make war a legitimate or appropriate means of combating terrorism. There are many just causes, but few just wars. A RAND Corporation study released in 2008 shows that terrorist groups are thwarted usually through political processes and effective law enforcement, not the use of military force. An examination of 268 terrorist organizations that ended during a period of nearly forty years found that the primary factors accounting for their demise were participation in political processes (43 percent) and effective policing (40 percent). Military force accounted for the defeat of terrorist groups in only 7 percent of the cases.

The military's counterinsurgency doctrine calls for winning hearts and minds, which requires a campaign that is 80 percent nonmilitary. The US effort in Afghanistan is the reverse, more than 80 percent military.

War policies are not only inappropriate but counterproductive, arousing widespread anger at US policies. President Obama lamented the "reflexive suspicion of America" that exists in many countries, but he failed to acknowledge that American war policies often arouse that suspicion. The invasion and occupation of Iraq generated what Francis Fukuyama termed a "frenzy of anti-Americanism" around the world. The presence of foreign troops in Afghanistan is the principal factor driving the insurgency and mobilizing support for the Taliban.

The president identified many important principles of peacemaking—multilateral cooperation, defense of human rights, commitment to economic development. To enforce international law he advocated the use of nonmilitary sanctions combined with the incentive of diplomatic engagement. He acknowledged "the moral force of nonviolence" and praised the centrality of the "creed and lives of Gandhi and King."

Yet this message of hope was overshadowed by Obama's role as a war president—by his defense of a foreign policy that systematically undervalues nonmilitary approaches and that devotes far more resources to war than to development and diplomacy.

DAVID CORTRIGHT

David Cortright is co-chair of the Win Without War coalition and author of Peace: A History of Movements and Ideas *(Cambridge).*

Caged Tiger

Tiger Woods's self-imposed exile from golf is the most stunning—and stunningly rapid—fall from grace in the history of sports. Woods's departure may last three months or it may last three years. But one thing is certain: unlike the twenty-four-hour sleaze that's dominated the airwaves since the initial revelations of Woods's infidelities, this is actual news.

COMMENT

The jury is out on whether Tiger's retreat makes him more sympathetic. But we should remember that Woods didn't choose to leave golf until his sponsors left him. He announced his departure on December 11. He hadn't been on a prime-time commercial since November 29, three days after his car accident, according to the Nielsen Company.

This is what we call chickens coming home to roost. The least attractive part of Woods's persona—including all recent peccadilloes—is his complete absence of conscience when it comes to peddling his billion-dollar brand. Tiger's partnerships with toxic waste dumper Chevron and financial criminals in Dubai deserve far more scrutiny from the sports press than they have received (none). Then there was the Philippines. As detailed in the documentary *The Golf War*, the Philippine government, in conjunction with the military and developers, attempted in the late 1990s to remove thousands of peasants from their land in order to build a golf course. Where was Woods? He was brought in by the government to play in an exhibition match and sell golf, all for an undisclosed fee.

Tiger, with his global ethnic appeal, has been the sport's avatar, traveling the global South seeking new acres to conquer. The sports media have for years defended his right to "not be political." But he *has* been political. It's the politics of using golf as a weapon to reap untold riches and all the other attendant privileges of fame. It's the politics of turning a blind eye to your corporate partners' malfeasance when there's a buck to be made. This is the real teachable moment of this whole circus: if you front for the worst of the worst, don't expect anyone to have your back.

DAVE ZIRIN

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Alexander Cockburn

From Nicaea to Copenhagen

The global warming jamboree in Copenhagen was surely the most outlandish foray into intellectual fantasizing since the fourth-century Christian bishops assembled in 325 AD for the Council of Nicaea to debate whether God the Father was supreme or had to share equal status in the pecking order of eternity with his Son and the Holy Ghost.

Shortly before the Copenhagen summit the proponents of anthropogenic global warming (AGW) were embarrassed by a whistleblower who put on the web more than a thousand e-mails either sent from or received at the University of East Anglia's Climatic Research Unit, headed by Dr. Phil Jones. The CRU was founded in 1971 with funding from sources including Shell and British Petroleum. Coolers transmuted into Warmers, and it became one of the climate-modeling grant mills supplying tainted data from which the UN's Intergovernmental Panel on Climate Change (IPCC) has concocted its reports.

Deceitful manipulation of data, concealment or straightforward destruction of inconvenient evidence, vindictive conspiracies to silence critics, are par for the course in all scientific debate. But in displaying all these characteristics the CRU e-mails graphically undermine the claim of the Warmers that they command the moral as well as scientific high ground. It has been a standard ploy of the Warmers to revile the skeptics as whores of the energy industry, swaddled in munificent grants and with large personal stakes in discrediting AGW. Actually, the precise opposite is true. Billions in funding and research grants sluice into the big climate-modeling enterprises and a vast archipelago of research departments and "institutes of climate change" across academia. It's where the money is. Skepticism, particularly for a young climatologist or atmospheric physicist, can be a career breaker.

Many of the land mines in the CRU e-mails tend to buttress longstanding charges by skeptics (yours truly included, in *The Nation* two years ago) that statistical chicanery by professor Michael Mann and others occluded the highly inconvenient Medieval Warm Period, running from 800 to 1300 AD, with temperatures in excess of the highest we saw in the twentieth century, a historical fact that makes nonsense of the thesis that global warming could be attributed to the auto-industrial civilization of the twentieth century. Here's Keith Briffa, of the CRU, letting his hair down in an e-mail on September 22, 1999: "I know there is pressure to present a nice tidy story as regards 'apparent unprecedented warming in a thousand years or more in the proxy data' but in reality the situation is not quite so simple.… I believe that the recent warmth was probably matched about 1000 years ago."

Now, in the fall of 1999 the IPCC was squaring up to its all-important "Summary for Policymakers"—essentially a press release, one that eventually featured the notorious graph flatlining into nonexistence the Medieval Warm Period and displaying a terrifying, supposedly unprecedented surge in twentieth-century temperatures. Briffa's reconstruction of temperature changes, one showing a mid- to late-twentieth-century decline, was regarded by Mann, in a September 22, 1999, e-mail to the CRU, as a "problem and a potential distraction/detraction." So Mann, a lead author on this chapter of the IPCC report, simply deleted the embarrassing post-1960 portion of Briffa's reconstruction. The CRU's Jones happily applauded Mann's deceptions in an e-mail in which he crowed over "Mike's Nature trick."

Other land mines include e-mails from Kevin Trenberth, the head of the Climate Analysis Section of the National Center for Atmospheric Research in Boulder, Colorado. On October 14 he wrote to the CRU's Tom Wigley, "How come you do not agree with a statement that says we are no where close to knowing where energy is going or whether clouds are changing to make the planet brighter. We are not close to balancing the energy budget. The fact that we can not account for what is happening in the climate system makes any consideration of geo-engineering quite hopeless as we will never be able to tell if it is successful or not! It is a travesty!" Only a few weeks before Copenhagen, here is a scientist in the inner AGW circle disclosing that "we are no where close to knowing" how the supposedly proven AGW warming model might actually work, and that therefore geoengineering—such as carbon mitigation—is "hopeless." This admission edges close to acknowledgment of a huge core problem—that "greenhouse" theory violates the second law of thermodynamics, which says that a cooler body cannot warm a hotter body without compensation. Greenhouse gases in the cold upper atmosphere cannot possibly transfer heat to the warmer earth, and in fact radiate their absorbed heat into outer space. (Readers interested in the science can read Gerhard Gerlich and Ralf Tscheuschner's "Falsification of the Atmospheric CO_2 Greenhouse Effects Within the Frame of Physics," updated in January 2009.)

Recent data from many monitors including the CRU, available on climate4you.com, show that the average temperature of the atmosphere and the oceans near the surface of the earth has decreased significantly across the past eight years or so. CO_2 is a benign gas essential to life, occurring in past eras at five times present levels. Changes in atmospheric CO_2 do not correlate with human emissions of CO_2, emissions that are entirely trivial in the global balance. The battles in Nicaea in 325 were faith-based, with no relation to science or reason. So were the premises of the Copenhagen summit, that the planet faces catastrophic warming caused by man-made CO_2 buildup, and that human intervention—geoengineering—could avert the coming disaster. Properly speaking it's a farce. In terms of distraction from cleaning up the pollutants that are actually killing people, it's a terrible tragedy. ■

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Katha Pollitt

Time to Get Out Those Checkbooks

The economist Joel Waldfogel claims Christmas presents are a waste of money because most people don't really like what you give them. So the heck with them—bake some cookies for the folks on your list, because everyone likes cookies, and give generously to any or all of the great groups below.

1. **Native American Women's Health Education Resource Center.** Co-founded by Charon Asetoyer, who did so much to defeat South Dakota's proposed abortion ban (twice!), this project of the Native American Community Board helps women and children on or near the Yankton Sioux reservation. There's a domestic violence shelter, a food pantry, counseling, help with transitional housing, plus important work documenting violence against Native American women and the insufficient response of the Indian Health Service and other federal bureaus. (Make checks out to NACB with "NAWHERC" on the memo line, Box 572, Lake Andes, SD 57356; nativeshop.org)

2. **Gulf Region Advocacy Center.** This Houston-based group provides free legal help to indigent capital defendants in execution-happy Texas. GRACE has moved juries to see a life worth preserving, improved the way trials are conducted and helped build the legal framework against the death penalty. Keep it going in these desperate times. (2307 Union Street, Houston TX 77007; gracelaw.org)

3. **Freedom From Religion Foundation**. If you have had it up to here with faith-based initiatives, creationism and clerical prying into our private lives, FFRF is the organization for you. This scrappy group brings lawsuits against church-state entanglements and puts up witty billboards and bus signs promoting, well, freedom from religion. Reason's Greetings! (Box 750, Madison, WI 53701; ffrf.org)

4. **Bahia Street.** Founded by a Brazilian sociologist and an American anthropologist, this group helps girls from the slums of Salvador, Brazil, with education, healthcare, food and counseling to help them break out of the cycle of poverty and violence. It works! The first girls went off to college this year, and more on the way. (1005 NE Boat Street, Seattle, WA 98105; bahiastreet.org)

5. **WAW/AWF.** More troops are not going to help Afghan women become literate or self-supporting or safe from violence. That takes local knowledge and hands-on involvement. Women for Afghan Women, on whose advisory board I serve, runs women's shelters in Kabul and other cities, plus a home for the children of women in prison. Its Afghan Women's Fund, directed by the heroic Fahima Vorgetts, builds schools, digs wells and sets up women's councils that provide literacy classes and job training in the countryside. (Checks to WAW go to 32-17 College Point Boulevard, Room 206, Flushing, NY 11354; womenforafghanwomen.org. To support the AWF, make out a check to WAW/AWF, 978 Yachtsman Way, Annapolis, MD 21403)

6. **University Scholarships for South African Students.** The brainchild of philosopher Robert Paul Wolff, USSAS celebrates its twentieth year of helping low-income young people attend university. Recently, it has focused on students dedicated to fighting AIDS—as social workers, health workers, pharmacists, scientists. So your donation not only educates talented students; it helps them help others. (631 Meadowmont Village Circle, Chapel Hill, NC 27517; ussas.com)

7. **National Network of Abortion Funds.** No matter what Bart Stupak says, more and more women all over the country cannot afford to terminate a crisis pregnancy. By the time a woman pulls together the roughly $400 cost of an early procedure, she can be into the much more expensive and harder-to-access second trimester. Local volunteer abortion funds help with costs and arrangements, but they can only give out what they have. (Help with a check to NNAF with "Patient Care" on the memo line, 42 Seaverns Avenue, Boston, MA 02130; nnaf.org)

8. **Help Lesotho.** This landlocked African nation is the seventh-poorest in the world and has the third-highest incidence of HIV/AIDS. More than 30 percent of its children are orphans, who if lucky are being raised by grandmothers, many desperately poor. With the sad but determined motto "Creating a future for those who are left!" this Canadian NGO supports 9,000 children and grandmothers with everything from school fees and food to training in HIV prevention and gender equality. Send a child to school for $465 Canadian a year or support a grandmother for $20 a month. (Keller Williams Ottowa Building, 610 Bronson Avenue, Ottowa, Ontario, Canada K1S 4E6; helplesotho.ca)

9. **China Labor Watch.** Just about everything we buy is made in China, but who are the people who make those things? CLW investigates conditions in Chinese factories contracted and subcontracted by multinational corporations—Wal-Mart, Mattel, McDonald's, Disney, Adidas and others—and helps workers win better pay and conditions. On a budget that would barely keep a hedge funder in champagne over Christmas, CLW stood up for more than 50,000 workers in 2009. Think what it could do with ample support from *Nation* readers! (Box 4134, Grand Central Station, New York, NY 10163; chinalaborwatch.org)

10. **MADRE.** Overwhelmed by need from every corner of the globe? MADRE partners with groups to help women and children in more than a dozen countries. In Iraq, it supports Yanar Mohammed's network of secret shelters for women fleeing domestic violence and honor murder. In Kenya, it works on water purification projects that free women from the task of transporting water over long distances. In Bolivia, it helps indigenous women prepare to run for political office. Right now, 100 percent of your gift goes directly to projects. (121 West 27 Street, Room 301, New York, NY 10001; madre.org) ■

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Naomi Klein

The Courage to Say No

Copenhagen

On the ninth day of the Copenhagen climate summit, Africa was sacrificed. The position of the G-77 negotiating bloc, including African states, had been clear: a 2 degree Celsius increase in average global temperatures translates into a 3–3.5 degree increase in Africa.

That means, according to the Pan African Climate Justice Alliance, "an additional 55 million people could be at risk from hunger" and "water stress could affect between 350 and 600 million more people." Archbishop Desmond Tutu puts the stakes like this: "We are facing impending disaster on a monstrous scale.... A global goal of about 2 degrees C is to condemn Africa to incineration and no modern development."

And yet that is precisely what Ethiopia's prime minister, Meles Zenawi, proposed to do when he stopped off in Paris on his way to Copenhagen: standing with President Nicolas Sarkozy, and claiming to speak on behalf of all of Africa (he is the head of the African climate-negotiating group), he unveiled a plan that includes the dreaded 2 degree increase and offers developing countries just $10 billion a year to help pay for everything climate related, from sea walls to malaria treatment to fighting deforestation.

It's hard to believe this is the same man who only three months ago was saying this: "We will use our numbers to delegitimize any agreement that is not consistent with our minimal position.... If need be, we are prepared to walk out of any negotiations that threaten to be another rape of our continent.... What we are not prepared to live with is global warming above the minimum avoidable level."

And this: "We will participate in the upcoming negotiations not as supplicants pleading for our case but as negotiators defending our views and interests."

We don't yet know what Zenawi got in exchange for so radically changing his tune or how, exactly, you go from a position calling for $400 billion a year in financing (the Africa group's position) to a mere $10 billion. Similarly, we do not know what happened when Secretary of State Hillary Clinton met with Philippine President Gloria Arroyo just weeks before the summit and all of a sudden the toughest Filipino negotiators were kicked off their delegation and the country, which had been demanding deep cuts from the rich world, suddenly fell in line.

We do know, from witnessing a series of these jarring about-faces, that the G-8 powers are willing to do just about anything to get a deal in Copenhagen. The urgency clearly does not flow from a burning desire to avert cataclysmic climate change, since the negotiators know full well that the paltry emissions cuts they are proposing are a guarantee that temperatures will rise a "Dantesque" 3.9 degrees, as Bill McKibben puts it.

Matthew Stilwell of the Institute for Governance and Sustainable Development—one of the most influential advisers in these talks—says the negotiations are not really about averting climate change but are a pitched battle over a profoundly valuable resource: the right to the sky. There is a limited amount of carbon that can be emitted into the atmosphere. If the rich countries fail to radically cut their emissions, then they are actively gobbling up the already insufficient share available to the South. What is at stake, Stilwell argues, is nothing less than "the importance of sharing the sky."

Europe, he says, fully understands how much money will be made from carbon trading, since it has been using the mechanism for years. Developing countries, on the other hand, have never dealt with carbon restrictions, so many governments don't really grasp what they are losing. Contrasting the value of the carbon market—$1.2 trillion a year, according to leading British economist Nicholas Stern—with the paltry $10 billion on the table for developing countries, Stilwell says that rich countries are trying to exchange "beads and blankets for Manhattan." He adds: "This is a colonial moment. That's why no stone has been left unturned in getting heads of state here to sign off on this kind of deal.... Then there's no going back. You've carved up the last remaining unowned resource and allocated it to the wealthy."

For months now NGOs have gotten behind a message that the goal of Copenhagen is to "seal the deal." Everywhere we look in the Bella Center, clocks are going "tck tck tck." But any old deal isn't good enough, especially because the only deal on offer won't solve the climate crisis and might make things much worse, taking current inequalities between North and South and locking them in indefinitely. Augustine Njamnshi of Pan African Climate Justice Alliance puts the 2 degree proposal in harsh terms: "You cannot say you are proposing a 'solution' to climate change if your solution will see millions of Africans die and if the poor not the polluters keep paying for climate change."

Stilwell says that the wrong kind of deal would "lock in the wrong approach all the way to 2020"—well past the deadline for peak emissions. But he insists that it's not too late to avert this worst-case scenario. "I'd rather wait six months or a year and get it right because the science is growing, the political will is growing, the understanding of civil society and affected communities is growing, and they'll be ready to hold their leaders to account to the right kind of a deal."

At the start of these negotiations the mere notion of delay was environmental heresy. But now many are seeing the value of slowing down and getting it right. Most significant, after describing what 2 degrees would mean for Africa, Archbishop Tutu pronounced that it is "better to have no deal than to have a bad deal." That may well be the best we can hope for in Copenhagen. It would be a political disaster for some heads of state—but it could be one last chance to avert the real disaster for everyone else. ■

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America's Secret ICE Castles

JACQUELINE STEVENS

Immigration agents are holding US residents in unlisted and unmarked subfield offices.

"If you don't have enough evidence to charge someone criminally but you think he's illegal, we can make him disappear." Those chilling words were spoken by James Pendergraph, then executive director of Immigration and Customs Enforcement's (ICE) Office of State and Local Coordination, at a conference of police and sheriffs in August 2008. Also present was Amnesty International's Sarnata Reynolds, who wrote about the incident in the 2009 report "Jailed Without Justice" and said in an interview, "It was almost surreal being there, particularly being someone from an organization that has worked on disappearances for decades in other countries. I couldn't believe he would say it so boldly, as though it weren't anything wrong."

Pendergraph knew that ICE could disappear people, because he knew that in addition to the publicly listed field offices and detention sites, ICE is also confining people in 186 unlisted and unmarked subfield offices, many in suburban office parks or commercial spaces revealing no information about their ICE tenants—nary a sign, a marked car or even a US flag. (Presumably there is a flag at the Veterans Affairs Complex in Castle Point, New York, but no one would associate it with the Criminal Alien Program ICE is running out of Building 7.) Designed for confining individuals in transit, with no beds or showers, subfield offices are not subject to ICE Detention Standards. The subfield office network was mentioned in an October report by Dora Schriro, then special adviser to Janet Napolitano, secretary of Homeland Security, but no locations were provided.

I obtained a partial list of the subfield offices from an ICE officer and shared it with immigrant advocates in major human and civil rights organizations, whose reactions ranged from perplexity to outrage. Andrea Black, director of Detention Watch Network (DWN), said she was aware of some of the subfield offices but not that people were held there. ICE never provided DWN a list of their locations. "This points to an overall lack of transparency and even organization on the part of ICE," said Black. ICE says temporary facilities in field or subfield offices are used for 84 percent of all book-ins. There are twenty-four listed field offices. The 186 unlisted subfield offices tend to be where local police and sheriffs have formally or informally reached out to ICE. For instance, in 2007 North Carolina had 629,947 immigrants and at least six subfield offices, compared with Massachusetts, with 913,957 immigrants and one listed field office. Not surprisingly, before joining ICE Pendergraph, a sheriff, was the Joe Arpaio of North Carolina, his official bio stating that he "spearheaded the use of the 287(g) program," legislation that empowers local police to perform immigration law enforcement functions.

A senior attorney at a civil rights organization, speaking on background, saw the list and exclaimed, "You cannot have secret detention! The public has the right to know where detention is happening."

Alison Parker, deputy director of Human Rights Watch, wrote a December comprehensive report on ICE transit policies, "Locked Up Far Away." Even she had never heard of the subfield offices and was concerned that the failure to disclose their locations violates the UN's Covenant on Civil and Political Rights, to which the United States is a signatory. She explained that the government must provide "an impartial authority to review the lawfulness of custody. Part and parcel is the ability of somebody to find the person and to make their presence known to a court."

The challenge of being unable to find people in detention centers, documented in the Human Rights Watch report, is worsened when one does not even know where to look. The absence of a real-time database tracking people in ICE custody means ICE has created a network of secret jails. Subfield offices enter the time and date of custody after the fact, a situation ripe for errors, hinted at in the Schriro report, as well as cover-ups.

ICE refused a request for an interview, selectively responded to questions sent by e-mail and refused to identify the person authorizing the reply—another symptom of ICE thwarting transparency and hence accountability. The anonymous official provided no explanation for ICE not posting a list of subfield office locations and phone numbers or for its lack of a real-time locator database.

It is not surprising to find that, with no detention rules and being off the map spatially and otherwise, ICE agents at these locations are acting in ways that are unconscionable and unlaw-

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ful. According to Ahilan Arulanantham, director of Immigrant Rights for the ACLU of Southern California, the Los Angeles subfield office called B-18 is a barely converted storage space tucked away in a large downtown federal building. "You actually walk down the sidewalk and into an underground parking lot. Then you turn right, open a big door and *voilà*, you're in a detention center," Arulanantham explained. Without knowing where you were going, he said, "it's not clear to me how anyone would find it. What this breeds, not surprisingly, is a whole host of problems concerning access to phones, relatives and counsel."

It's also not surprising that if you're putting people in a warehouse, the occupants become inventory. Inventory does not need showers, beds, drinking water, soap, toothbrushes, sanitary napkins, mail, attorneys or legal information, and can withstand the constant blast of cold air. The US residents held in B-18, as many as 100 on any given day, were treated likewise. B-18, it turned out, was not a transfer area from point A to point B but rather an irrationally revolving stockroom that would shuttle the same people briefly to the local jails, sometimes from 1 to 5 AM, and then bring them back, shackled to one another, stooped and crouching in overpacked vans. These transfers made it impossible for anyone to know their location, as there would be no notice to attorneys or relatives when people moved. At times the B-18 occupants were left overnight, the frigid onslaught of forced air and lack of mattresses or bedding defeating sleep. The hours of sitting in packed cells on benches or the concrete floor meant further physical and mental duress.

> 'No one could visit; they couldn't find me. I was thinking these people are going to put me in a grinder and make sausages.' —Alla Suvorova

Alla Suvorova, 26, a Mission Hills, California, resident for almost six years, ended up in B-18 after she was snared in an ICE raid targeting others at a Sherman Oaks apartment building. For her, the worst part was not the dirt, the bugs flying everywhere or the clogged, stinking toilet in their common cell but the panic when ICE agents laughed at her requests to understand how long she would be held. "No one could visit; they couldn't find me. I was thinking these people are going to put me and the other people in a grinder and make sausages and sell them in the local market."

Sleep deprivation and extreme cold were among the "enhanced interrogation" techniques promoted by the Bush White House and later set aside by the Justice Department because of concerns that they amounted to torture. Although without the intent to elicit information, ICE under the Obama administration was holding people charged with a civil infraction in conditions approaching those no longer authorized for accused terrorists.

According to Aaron Tarin, an immigration attorney in Salt Lake City, "Whenever I have a client in a subfield office, it makes me nervous. Their procedures are lax. You've got these senior agents who have all the authority in the world because they're out in the middle of nowhere. You've got rogue agents doing whatever they want. Most of the buildings are unmarked; the vehicles they drive are unmarked." Like other attorneys, Tarin was extremely frustrated by ICE not releasing its phone numbers. He gave as an example a US citizen in Salt Lake City who hired him because her husband, in the process of applying for a green card, was being held at a subfield office in Colorado. By the time Tarin tracked down the location of the facility that was holding the husband when he had called his wife, the man had been moved to another subfield office. "I had to become a little sleuth," Tarin said, describing the hours he and a paralegal spent on the phone, the numerous false leads, unanswered phones and unreturned messages until the husband, who had been picked up for driving without a license or insurance, was found in Grand Junction, Colorado, held on a $20,000 bond, $10,000 for each infraction. "I argued with the guy, 'This is absurd! Whose policy is this?'" Tarin said the agent's response was, "That's just our policy here."

Rafael Galvez, an attorney in Maine, explained why he would like ICE to release its entire list of subfield office addresses and phone numbers. "If they're detaining someone, I will need to contact the people on the list. If I can advocate on a person's behalf and provide documents, a lot of complications could be avoided."

Cary, a suburb of Raleigh, North Carolina, has a typical subfield office at the rear of CentreWest Commons, an office park adjacent to gated communities, large artificial ponds and an Oxford University Press production plant. ICE's low-lying brick building with a bright blue awning has darkened windows, no sign and no US flag. People in shackles and handcuffs are shuffled in from the rear. The office complex has perhaps twenty other businesses, all of which do have signs. The agents, who are armed, might not wear uniforms and drive their passengers in unmarked, often windowless white vans. Even Dani Martinez-Moore, who lives nearby and coordinates the North Carolina Network of Immigrant Advocates, did not know people were being held there until she read about it on my blog.

In late October 2008, Mark Lyttle, then 31, was held in the Cary office for several hours. Lyttle was born in North Carolina, and the FBI file ICE had obtained on him indicated he was a US citizen. Lyttle used his time in the holding tank attempting to persuade the agents who had plucked him out of the medical misdemeanor section of a nearby prison, where he had been held for seventy-three days, not to follow through on the Cary office's earlier decision to ship him to Mexico. Lyttle is cognitively disabled, has bipolar disorder, speaks no Spanish and has no Mexican relatives. In response to his entreaties, a Cary agent "told me to tell it to the judge," Lyttle said. But Lyttle's charging document from the Cary office includes a box checked next to the boilerplate prohibition: "You may not request a review of this determination by an immigration judge."

Jacqueline Stevens, a political theorist, is the author of the recently published States Without Nations: Citizenship for Mortals *(Columbia). Please see http://cup.columbia.edu/book/978-0-231-14876-4/states-without-nations for more information, or visit jacquelinestevens.org.*

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Dr. Thomas Childers (Ph.D., Harvard University) is Professor of History at the University of Pennsylvania. His teaching awards include the Ira T. Abrahams Award for Distinguished Teaching and Challenging Teaching in the Arts and Sciences, the Richard S. Dunn Award for Distinguished Teaching in History, and the Senior Class Award for Excellence in Undergraduate Teaching.

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Lyttle made enough of a fuss at the Stewart Detention Center in Lumpkin, Georgia, that the agents there arranged for him to appear before a judge. But the checked box in the Cary paperwork meant he never heard from the nonprofit Legal Orientation Program attorneys who might have picked up on his situation. William Cassidy, a former ICE prosecutor working for the Executive Office of Immigration Review, ignored Lyttle's pleas and in his capacity as immigration judge signed Lyttle's removal order. According to Lyttle, Cassidy said he had to go by the sworn statements of the ICE officers.

Meanwhile, Lyttle's mother, Jeanne, and his brothers, including two in the Army, were frantically searching for him, even checking the obituaries. They were trying to find Lyttle in the North Carolina prison system, but the trail went cold after he was transferred to ICE custody. Jeanne said, "David showed me the Manila envelope [he sent to the prison]—'Refused'—and we thought Mark had refused it." Jeanne was crying. "We kept trying to find out where he was." It never crossed their minds that Mark might be spending Christmas in a shelter for *los deportados* on the Mexican side of the Rio Grande.

ICE spokesman Temple Black first told me the list was "not releasable" and that it was "law enforcement sensitive," but coordinator for community outreach Andrew Lorenzen-Strait e-mailed me a partial list of addresses and no phone numbers. I then obtained a more complete list, including telephone numbers, in response to a FOIA request. That list, received in November and dated September 2009, is about forty locations shy of the 186 subfield offices mentioned in the Schriro report and omits thirty-nine locations listed in an August ICE job announcement seeking applicants for immigration enforcement agents. These include ICE postings in Champlain, New York; Alamosa, Colorado; Pembroke Pines, Florida; and Livermore, California. The anonymous ICE official neither answered questions about why I was sent an incomplete list nor accounted for the disparity in official explanations of the list's confidentiality.

ICE obscures its presence in other ways as well. Everyone knows that detention centers are in sparsely populated areas, but according to Amnesty International's Reynolds, policy director of migrant and refugee rights, "Quite a lot of communities don't know they're detaining thousands of people, because the signs say SERVICE PROCESSING CENTER," not DETENTION CENTER, although the latter designation is used for privately contracted facilities. The ICE e-mail stated that the "service processing" term was first used when the centers were run by the predecessor agency Immigration and Naturalization Service, "because these facilities were used to process aliens for deportation," ignoring the fact that these structures were and are distinctive for confining people and not the Orwellian "processing."

Even the largest complexes, which are usually off side roads from small highways, are visible only if you drive right up to the entrance. Unlike federal prisons, detention centers post no road signs to guide travelers. The anonymous ICE official would not provide a reason for this disparity.

ICE agents are also working in hidden offices in one of the grooviest buildings in one of the hottest neighborhoods in Manhattan. Tommy Kilbride, an ICE detention and removal officer and a star of A&E's reality show *Manhunters: Fugitive Task Force*, is part of the US Marshals Fugitive Task Force, housed on the third floor of the Chelsea Market, above Fat Witch Bakery and alongside Rachael Ray and the Food Network. Across the street are Craftsteak and Del Posto, both fancy venues for two other Food Network stars, Tom Colicchio and Mario Batali. Above their restaurants are agents working for the FBI's Joint Terrorism Task Force.

ICE agents work in hidden offices in New York's Chelsea Market, above the Fat Witch Bakery and alongside Rachael Ray and the Food Network.

Someone who had been working in that building for about a year said he had heard rumors of FBI agents, though he didn't see one until nine months later when a guy was openly carrying a gun through the lobby. In November, at midday, he saw two men in plain clothes walk a third man in handcuffs through a side-street door behind Craftsteak. "It was weird, creepy," he said, adding that the whole arrangement made him uncomfortable. "I don't like it. It makes you wonder, what are they hiding? Is it for good reasons or bad reasons?"

Natalie Jeremijenko, who lives nearby and is a professor of visual arts at New York University, pointed out the "twisted genius" of hiding federal agents in the "worldwide center of visuality and public space," referring to the galleries and High Line park among these buildings. Jeremijenko was incensed. "For a participatory democracy to work, you need to have real-time visual evidence of what is going on" and not just knowledge by professors who file a FOIA request or even readers of a *Nation* article.

In response to a question about the absence of signs at subfield offices, the ICE e-mail stated, "ICE attempts to place signs wherever possible, however there are many variables to consider such as shared buildings, law enforcement activities, zoning laws, etc." Except for "law enforcement activities," the reasons did not apply to the facilities listed here, as evidenced by signs on adjacent businesses.

The Obama administration continued to ignore complaints about the LA subfield office known as B-18 until April 1, when Napolitano and Attorney General Eric Holder, as well as ICE officials, were named as defendants in a lawsuit filed by the ACLU and the National Immigration Law Center. In September, the parties reached a settlement. The ACLU's Arulanantham said, "I never understood what [ICE] had to gain. The fact that after we filed the suit they completely fixed it makes it more mysterious" as to why their months of earlier negotiation brought few results. At the time of the lawsuit, he said, the nearby Mira Loma Detention Center had space. When I asked if ICE was trying to punish people by bringing them to

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B-18, Arulanantham said, "No, no one was targeted," adding, "If it were punitive, it would be less disturbing."

Arulanantham's response is, alas, more than fodder for a law school hypothetical about whether intentional or unintentional rights violations are more egregious. In 2006 ICE punished several Iraqi hunger strikers in Virginia—they were protesting being unlawfully held for more than six months after agreeing to deportation—by shuffling them between a variety of different facilities, ensuring that they would not encounter lawyers or be found by loved ones. This went on from weeks to months, according to Brittney Nystrom, senior legal adviser for the National Immigration Forum. "The message was, We're going to make you disappear."

As an alternative to the system of unmarked subfield offices and unaccountable agents, consider the approach of neighborhood police precincts, where dangerous criminals are held every day and police carry out their work in full view of their neighbors. Not only can citizens watch out for strange police actions, and know where to look if a family member is missing; local accountability helps discourage misconduct. ICE agents' persistent flouting of rules and laws is abetted by their ability to scurry back to secret dens, avoiding the scrutiny and resulting inhibitions that arise when law enforcement officers develop relationships with the communities they serve.

Indeed, the jacket Kilbride wears during arrests says POLICE in large letters. Working out of a heretofore secret location—*Manhunters* has no exterior shots—one that his supervisor had requested I not reveal, gives their operation the trappings of a secret police. An attorney who had a client held in a subfield office said on background, "The president released in January a memorandum about transparency, but that's not happening. He says one thing, but we have these clandestine operations, akin to extraordinary renditions within the United States. They're misguided as to what their true mission is, and they are doing things contrary to the best interests of the country." ■

A Master of Disaster

John Dugan helped create the 'too big to fail' economy—so why is he still regulating our banks?

by ZACH CARTER

Of all the architects of last year's financial crash, John Dugan remains the most obscure, despite his stature as one of the most influential. While regulatory errors have made Larry Summers, Robert Rubin and Alan Greenspan household names, most people have never heard either of Dugan or his agency, the Office of the Comptroller of the Currency. But as the chief regulator for the largest US banks, Dugan and his staff are one of the most powerful engines of economic policy in the world.

Over the course of nearly a quarter-century, Dugan has proved himself a staunch ally of the American financial elite as a Senate staffer (1985-89), a Treasury official (1989-93) and a lobbyist (1993-2005), building a career that culminated in 2005 when George W. Bush appointed him comptroller of the currency. When the financial system finally succumbed to its own excesses in September 2008, Dugan's fingerprints were all over the economic wreckage, but almost nobody noticed.

Dugan began navigating the intersection of politics and finance in the mid-1980s as an aide to deregulatory ideologue Republican Senator Jake Garn. But he didn't distinguish himself as anything more than a partisan workhorse until he entered the Treasury Department in 1989. That year, Congress ordered the Treasury to conduct a study on deposit insurance—the federal program that makes sure you don't lose all your money if your bank fails. Under Dugan's direction, the study ballooned into a nearly 750-page book that is perhaps the single most boring manifesto for sweeping economic change that has ever been written. Published in 1991 under the mundane title *Modernizing the Financial System: Recommendations for Safer, More Competitive Banks*, Dugan's tome became known as the Green Book, and it established him as one of the earliest architects of the "too big to fail" economy.

FRANK POLICH/REUTERS

John Dugan speaks at the American Bankers Association convention in Chicago.

With the Green Book, Dugan pushed dozens of policies that were ultimately enacted, but three stand out from the pack. His

Zach Carter, a banking reporter for SNL Financial News, writes a weekly blog on the economy for The Media Consortium. His work has appeared in Mother Jones, Salon *and* The American Prospect.

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first objective was to allow banks to expand into multiple states without incurring additional regulatory oversight. His second, more radical goal was to allow relatively safe commercial banks to merge with riskier investment banks and insurance companies. And his third, most extreme initiative was to allow commercial firms—General Electric, Sears—to purchase a bank.

Dugan was not the first to suggest these reforms. Congress poked holes in the wall between banking and commerce in 1987. That same year, Paul Volcker's tenure as chair of the Federal Reserve came to an end, in part because of his resistance to using the central bank to weaken Glass-Steagall. But the banking system of 1991 still largely resembled the banking system of 1951. The significance of the Green Book is that it expressed these radical deregulatory positions in a single, seamless policy platform.

"It was unquestionably the blueprint for the major Clinton-era deregulation," says George Washington University Law School professor Arthur Wilmarth Jr., a longtime banking scholar. "It was the first real recipe for too big to fail." (Dugan declined to comment for this article.)

Dugan's Green Book marked the first time that the repeal of Glass-Steagall entered the official economic policy platform of an administration.

The Green Book policies may sound like technocratic tweaks, but Dugan was injecting himself as a key player in a fundamental restructuring of the US economy. Since the 1930s, the Glass-Steagall Act had barred banks that performed essential functions like accepting deposits and extending loans from making risky bets in the securities markets. In the late 1980s policy-makers and free-market economists began questioning the usefulness of the law and urged that banks be allowed to expand their activities in the name of global competition and profit. The Green Book marked the first time that the repeal of Glass-Steagall entered the official economic policy platform of an administration.

"The time has come for change," Dugan wrote in the Green Book. "Laws must be adapted to permit banks to reclaim the profit opportunities they have lost to changing markets. Where banking organizations have natural expertise in other lines of business, they should be allowed to provide it.... Adapting to market innovation is critical."

The step was so radical that in 1991, the finance lobby had not even figured out how to approach the issue. Big commercial banks were salivating over the prospect of acquiring securities firms, but Wall Street investment banks actually fought to uphold Glass-Steagall to keep from being swallowed up.

"This report represented a big paradigm shift in saying that the government's task is not to restrict what banks do; it's to facilitate their expansion into new activities in the quest of profitability," says Patricia McCoy, a law professor at the University of Connecticut. "It was enormously influential."

Dugan's vision for hybridized banking and commerce has so far only partly been realized, but his other plans were enacted within a decade. Dugan was particularly effective in selling the Green Book to the Democratic Congress, whose relationship with George H.W. Bush's Treasury had soured in negotiations involving the 1989 savings and loan cleanup bill, according to Richard Carnell, an aide to Senate Banking Committee chair Donald Riegle Jr. from 1987 to 1993. Dugan and Riegle communicated frequently about new legislation, passing less controversial aspects of the Green Book platform in 1991. By 1994, Congress had abolished barriers to interstate banking with the Riegle-Neal Interstate Banking and Branching Efficiency Act. The mash-up of investment banking and commercial banking was approved in 1999 with the passage of the Gramm-Leach-Bliley Act, which repealed parts of the Glass-Steagall Act.

"It built momentum for significant reforms," says Michael Klausner, a former official at the White House Office of Policy Development, one of dozens who worked on the Green Book under Dugan. "There was a time during the first Bush administration when it looked like a lot of it might pass.... Ultimately, less of it was passed under Bush, but it set things in motion that allowed the Clinton administration to finish the job."

"There were two pieces of legislation that facilitated our migration toward too big to fail... Interstate Banking and Branching Efficiency Act of 1994, which permitted banks to grow across state lines, and the Gramm-Leach-Bliley Act, which eliminated the separation of commercial and investment banking," said Kansas City Federal Reserve president Thomas Hoenig in an August 6 speech before the Kansas Bankers Association. "Since 1990, the largest twenty institutions grew from controlling about 35 percent of industry assets to controlling 70 percent of assets today."

Citibank, for example, transformed itself from a credit card issuer and commercial lender into a multitrillion-dollar behemoth, running hedge funds all over the world and gorging itself on subprime mortgages at home. The same story developed at Bank of America and JPMorgan Chase. Every megabank opened its own securities shop and began packaging garbage mortgages into bonds to sell to investors, spreading risk around the globe. Even after these banks received billions in taxpayer funds, their political clout remains so strong that financial regulatory reform has been stalled for over a year.

Gramm-Leach-Bliley "was a horrible mistake," says Senator Byron Dorgan, one of just eight senators to vote against the act. "The risks of investment banking and securities trading became embedded in commercial banks. We were promised there would be firewalls, but they must have been gasoline-soaked firewalls, because they went up in flames pretty fast." Of Riegle-Neal Dorgan says, "It really gave a green light for banks to expand, letting the big get bigger."

The Green Book didn't accomplish all this on its own. By the late 1990s the direct pressure for action was coming from the lobbying efforts of financial giants. And Dugan was a critical part of the lobbying effort. When he left Treasury in 1993, Dugan took a job as a partner at the Covington & Burling law

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firm, where he began advising big banks on skirting the very regulations he had been writing for years. A top client was the American Bankers Association, the chief lobby group for the banking industry. One of Dugan's most important assignments was to help the ABA push through Gramm-Leach-Bliley. "ABA helped craft nearly every significant part of the Act that affects the banking industry," Dugan boasted in a 1999 letter to ABA bankers.

Of course, for this lobbying push to be effective, Clinton's top economic advisers had to be receptive to Dugan's overtures. "These ideas really cannot be enacted until you get a takeover of the Democratic Party and a Democratic president who is willing to push them," says economist James Galbraith, "that neutralizes the opposition on the left that would otherwise organize to block this legislation."

Things could have been worse. Even former Congressman Jim Leach, the author of Gramm-Leach-Bliley, believes that Dugan's proposal to allow commercial firms to acquire banks would have been a catastrophe. "If Glass-Steagall's prohibition on combining commerce and banking…had been repealed, the contagion of misjudments in finance and financial regulation would have spread even more deeply," says Leach.

General Electric serves as a useful example. It's one of a handful of companies that have broken the commerce and banking barrier, and it needed a huge bailout when markets hit the skids in 2008. The company has issued nearly $74 billion in debt guaranteed by the government since December 2008.

The Green Book policies did not invent too big to fail, but they transformed a relatively controlled imbalance into an economic wrecking ball. When the FDIC invoked "too big to fail" in the late '80s and '90s, those troubled banks actually did fail—their shareholders were wiped out and their management teams were fired. The bailout went not to the bank but to its creditors—other banks that it owed money. Here's how the Green Book explains it: "The phrase 'too big to fail' refers to a situation in which the FDIC…is unwilling to inflict losses on uninsured depositors and even creditors in a troubled bank."

But by 2008 many banks had become so large and interwoven in different lines of business that policy-makers feared the consequences of shutting them down. The term "too big to fail" now means that government helps salvage not only creditors but shareholders and management teams.

There's another critical difference in the scope of the problem. In 1984 the FDIC bailed out creditors of Continental Illinois, which would prove the largest bank failure until 2008. But the total cost of the resolution was just $1.1 billion, a price tag that included not only the cost of bailing out the firm's creditors but also of backing its deposits. As *It Takes a Pillage* author Nomi Prins documented with Christopher Hayes in our pages on October 12, 2009, over the past two years the government has committed more than $17 trillion to save the banking sector, in the form of direct capital injections, loans and guarantees. Not all that money will be lost, and some of it has already been repaid. But there is simply no way to imagine the bailout tab running so high without Dugan's deregulatory work.

Too big to fail banks were a ticking time bomb, but they might not have ravaged the global economy in 2008 without major shortcomings in consumer protection over the previous five years. As head of the Office of the Comptroller of the Currency, Dugan played a leading role in gutting the consumer protection system, allowing big banks to take outrageous risks on the predatory mortgages that led to millions of foreclosures.

"For years, the OCC has had the power and the responsibility to protect both banks and consumers, and it has consistently thrown the consumer under the bus," says Harvard University Law School professor Elizabeth Warren, chair of the Congressional Oversight Panel for the Troubled Asset Relief Program. "The result has not only been no consumer protection but also a collapsed banking system. That is why we so urgently need a separate agency in Washington that is specifically focused on protecting families from credit tricks and traps."

Although Dugan continues to press the assault on consumer protection today, the OCC's effort to insulate big banks from consumer complaints predates his appointment in 2005. Between 1995 and 2007, the OCC issued only thirteen public enforcement actions against national banks on consumer protection issues, for the more than 1,600 banks it regulates. Over that same period, zero public actions were taken against the eight largest national banks, even though these banks were at the heart of the predatory mortgage explosion. Through 2006, the OCC staff devoted to handling consumer complaints numbered fifty or fewer. OCC-regulated banks process millions of mortgages every year.

> 'For years, the OCC…has consistently thrown the consumer under the bus.'
> —Harvard law professor Elizabeth Warren

Ever since it became apparent in 2007 that reckless mortgage lending had spurred an economic catastrophe, Dugan has been defending himself, his agency and the banks he supposedly regulates. His favorite talking point is a claim that OCC-regulated banks issued only 10 percent of all subprime mortgages in 2006. But that statement is a distortion, since many of the largest subprime players were regulated by the OCC, according to data from the *National Mortgage News*, a banking trade publication. Wells Fargo, Citi, Chase and First Franklin—all OCC charges—were among the top ten subprime lenders through the peak years of the housing bubble. In 2006 alone, Wells Fargo extended nearly $28 billion in subprime loans, while Citi issued more than $23 billion. The OCC had authority over more than nine of the twenty-five biggest subprime offenders identified by a Center for Public Integrity investigation.

A recent study by the National Consumer Law Center found that national banks and thrifts issued 31.5 percent of subprime mortgage loans, 40.1 percent of toxic Alt-A loans (predatory mortgages that don't qualify as subprime) and 51 percent of the predatory payment-option and interest-only adjustable-rate

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mortgage loans made in 2006. The OCC is responsible for national banks but not thrifts. A separate Federal Reserve study found that banks and thrifts accounted for about half the exotic mortgages originated in 2004 and 2005, 54 percent of those issued in 2006 and 79 percent of those from 2007.

"It's just amazing that after all that's happened, Dugan still says nothing happened, and whatever did happen wasn't the OCC's fault," says Kathleen Keest, a former assistant attorney general for the State of Iowa who serves as senior policy counsel for the Center for Responsible Lending, a consumer advocacy group. "Why did his banks need big bailouts if they were making such great loans? It's like he's standing in a room full of broken crockery and saying, 'I didn't break that cup.'"

Dugan repeated his narrative in a speech in September: "It is widely recognized that the worst subprime loans that have caused the most foreclosures were originated by nonbank lenders and brokers regulated exclusively by the states. Although the OCC has little rule-writing authority in this area, we have closely supervised national bank subprime lending practices. As a result, national banks originated a relatively smaller share of subprime loans and applied better standards, resulting in significantly fewer foreclosures." Dugan then concluded that "nothing in federal law precluded states from effectively regulating their own nonbank mortgage lenders and brokers."

Yet both Dugan and his OCC predecessor, Clinton appointee John Hawke Jr., have crusaded to defang state regulators. The OCC oversees federally chartered banks. Until 2004 states were able to enforce anti–predatory lending laws against any bank operating within their borders, regardless of whether the bank's corporate charter came from the state or the federal government. But the OCC changed all that, insisting that while state laws did in fact apply to national banks, only the OCC had the authority to enforce them. The order was so broad, it prevented states from enforcing their own laws against state-chartered subsidiaries of national banks and even mortgage brokers who worked with national banks.

The pre-emption of state consumer protection laws was a deliberate attempt to preserve the ability of the nation's largest banks to earn short-term profits from predatory loans. Every major OCC-regulated bank—Wells Fargo, Chase, Citi, Bank of America and Wachovia—had tremendous subprime and no-documentation loan operations. When state regulators tried to enforce their own laws, the OCC joined forces with a bank lobby group to sue the states. When courts sided against the states, the OCC became the sole agency responsible for cracking down on predatory lending at national banks—and it didn't lift a finger. State investigations throughout the country shut down, and state legislatures stopped moving to enact stricter laws.

"It created a get-out-of-jail-free card for national banks and their subsidiaries to engage in dangerous underwriting practices, and then it put pressure on the states to relax underwriting standards" says McCoy, who served as a member of the Federal Reserve's Consumer Advisory Council from 2002-04, warning the regulators about the dangers of predatory lending.

The big banks moved fast. When state regulators in Illinois took aim at a subsidiary of Wells Fargo, the company quickly reshuffled its legal paperwork and moved the offending subcompany under its nationally chartered bank, where the OCC could shield it from state action.

"It didn't just affect national banks, either," says Chuck Cross, a former regulator with Washington State. "Remember, the state-chartered banks can jump charters. They can go from a more restrictive state regulator to a less restrictive OCC. That creates a very tenuous political environment for a state trying to pass laws."

But twenty-six states did tighten mortgage standards over the course of the housing bubble. Meanwhile, Dugan was actively looking the other way. In 2006 the OCC finally offered guidance on nontraditional mortgage lending, in lieu of formal regulations, and didn't bother to enforce that guidance, since it was, after all, just guidance.

The OCC's dramatic reinterpretation of banking law was initiated by Hawke, but Dugan ramped up those efforts. In the current debate over the creation of a Consumer Financial Protection Agency, Dugan has demanded that the OCC have exclusive power to enforce consumer protection laws over national banks, with no authority for state regulators or even the new CFPA.

> Dugan has demanded that the OCC have exclusive power to enforce consumer financial protection laws over national banks.

Dugan's aggressive stance against consumer protection extended even into the basic function of collecting data on foreclosures. In 2007 a group of state attorneys general formed the State Foreclosure Prevention Working Group (SFPWG), which tried to gather information from major banks about what kinds of loans were causing problems and what the banks were doing to solve them. The banks turned to Dugan, who instructed them not to work with the state officials. Federal pre-emption was so sweeping, according to Dugan, that banks couldn't cooperate with state regulators on gathering data.

"So even though these folks are operating in our states, the foreclosures are affecting our communities and the banks are asking us to help them get in touch with the public to encourage them to contact their servicer—despite all that, we can't know what the banks are doing," says SFPWG member John Ryan.

Six months later, the OCC began issuing its own bank-friendly mortgage data. The first report, from June 2008, included no information on the quality or effectiveness of efforts by banks to work out loans with troubled borrowers—the primary purpose of the state AG effort. In December 2008, the OCC finally started publishing relevant data on loans that banks had modified, but it failed to distinguish between modifications that reduced borrower payments and schemes that increased their monthly burden. Dugan told a housing

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conference that month that he was shocked, shocked to learn that more than 50 percent of mortgages that banks had modified had quickly redefaulted.

The figure wouldn't have surprised him if he'd been interested in gathering useful data. A study by Valparaiso University Law School professor Alan White found that less than half of loan modifications performed by banks had decreased borrowers' monthly payments. In other words, the banks weren't trying to help people stay in their homes; they were trying to squeeze them for just one more check.

Dugan's term expires in August 2010, when President Obama can reappoint him or nominate someone else. But given Dugan's record, it's hard to see why he has been allowed to stay on the job for Obama's first year. It is not customary for the president to discharge the comptroller in the middle of his term, but he does have the legal authority to do so. ■

Shell Games in Nigeria

Prospects for lasting peace may depend on the oil company's dubious pledge to clean up its act.

by SASHA CHAVKIN

Alagoa Morris sped toward Ikarama as soon as he got word of the fire. He took a taxi from Yenagoa, the capital of Nigeria's Bayelsa State, to the Imbiama Junction, where he rented a motor bike and raced down the narrow roads to Ikarama. From miles away, he saw a column of smoke towering above the small rural community.

It was March 1, 2009, and Morris, a project officer for Friends of the Earth Nigeria, had received an urgent message that a fire had broken out at the site of a major oil spill. The spilled crude, which had streamed from a Shell Petroleum pipeline into the nearby Oya and Obrun lakes, had been sitting for months. When Morris arrived in Ikarama, he found that the site he had been pressing Shell to clean up was in flames. "The fire gutted all the plants and trees around the two lakes and was burning even on top of the water," he recalled.

Since June 2008 Morris has documented nine spills from Shell facilities in Ikarama. The spills have contaminated the town's main source of water, sickening children and killing many of the fish the local fishermen rely on. The March 1 blaze, said the Rev. FearGod Kologa, a pastor and respected community elder, destroyed plantains, cassava and cocoa yams on his property.

Ikarama is consumed by finger-pointing. Shell Petroleum, the Nigeria-based subsidiary of Royal Dutch Shell, blames the spills on sabotage by community members, an explanation that has been confirmed in several cases by formal investigations. Morris and Ikarama residents accuse Shell of ordering its contractors to set the spills ablaze instead of conducting real cleanups. "They tell contractors to come and burn the area," said a longtime Shell contractor in Ikarama, who asked to remain anonymous for fear of losing his job. "Every time there is an oil spill in Ikarama, whether sabotage or no sabotage, the contractor normally sets fire on the oil."

The damage in Ikarama is part of a swath of environmental devastation surrounding the operations of Shell and other multinational oil companies throughout the Niger Delta, the oil-rich southern region of Nigeria. Brushing aside regulation by a government that depends on oil extraction for 80 percent of its revenues, the oil majors act with impunity as they employ methods long since abandoned in the developed world. In turn, the government, a majority stakeholder in many joint-venture agreements with energy firms, fails to enforce the law as it spirits vast oil profits out of the Delta. Local communities, mired in poverty and pollution, have increasingly resorted to crime and militancy characterized by destructive attacks on oil facilities. The result has been the wholesale contamination of a region that is home to some 31 million people, most of whom depend on the natural environment for their livelihoods.

GEORGE ESIRI/REUTERS

A woman dries tapioca at the site of a gas flare near Warri, an oil hub in the Niger Delta.

In recent years, the toxic combination of poverty, pollution, corruption and the federal capture of oil revenues has spawned a violent rebellion led by the Movement for the Emancipation of the Niger Delta (MEND). Last summer MEND's attacks on the oil industry crippled production and threatened to bring the

Sasha Chavkin is a reporter based in New York City. His coverage of the environment has appeared in Mother Jones, Americas Quarterly *and* Grist.

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Nigerian economy to its knees. In August, the shaken government launched an amnesty program for rebels and opened negotiations on the militants' demands, which included a greater share of oil proceeds for the Delta. The amnesty led to several breakthroughs: in October the government proposed to grant a 10 percent stake in oil revenues to Delta communities, MEND declared an indefinite cease-fire and Nigerian Defense Minister Godwin Abbe told reporters that more than 15,000 rebels had registered to demobilize and turned in their weapons.

The effects of the amnesty have raised hopes of a peaceful solution to the region's longtime woes. But looming behind the advances remains the daunting challenge of translating these gains into a new way of doing business in the Delta. The same cast of characters from the region's half-century-old drama of contamination and violence—Shell and transnational oil firms, Nigeria's corruption-plagued government and the Delta's aggrieved and impoverished communities—must learn how to play new roles. The prospects of a lasting settlement will rest largely on whether the companies that dominate the region's economy and its environment can adopt a sustainable approach, and whether the government will compel them to do so.

The oil companies' environmental abuses were first dragged into the international spotlight nearly two decades ago by the charismatic writer and activist Ken Saro-Wiwa. Saro-Wiwa's nonviolent campaign against Shell's practices in his homeland, the Delta region of Ogoni, earned him a nomination for the Nobel Peace Prize. But his advocacy led him on a tragic collision course with Nigeria's military dictatorship; Saro-Wiwa was imprisoned on trumped-up murder charges and executed in 1995. In his final statement before he was hanged, the defiant environmentalist declared that Shell would one day stand trial. "The ecological war that the Company has waged in the Delta will be called to question sooner than later and the crimes of that war be duly punished," he wrote.

Soon after, Saro-Wiwa's family and the survivors of the eight other activists who were executed with him filed suit against Shell in the United States, charging the company with complicity in the killings. According to Jennie Green, the plaintiffs' lawyer, evidence included records showing that Shell Petroleum had paid and equipped the Nigerian army units that brutalized the Ogoni community, and testimony that its managing director offered to intercede against the execution if Saro-Wiwa withdrew his charges of environmental abuse—a deal Saro-Wiwa rejected. On June 8, 2009, after almost fourteen years of legal wrangling, Shell paid a $15.5 million settlement. The case, which relied on the 1789 Alien Tort Claims Act, set a legal precedent in establishing liability across international borders and was hailed as a triumph in enforcing corporate accountability for human rights abuses.

The publicity surrounding the lawsuit, and the emergence of democracy in Nigeria in 1999, have imposed greater caution on Shell and Nigeria's military. In 2000 Shell signed the Voluntary Principles on Security and Human Rights, a set of guidelines for corporate conduct jointly developed by multinational extractive companies and leading human rights groups. Communities affected by military violence are increasingly seeking redress in court, filing claims such as the $668 million suit against the government by members of the Delta's Gbaramatu Kingdom following a brutal military raid last May.

Yet even as accountability for human rights has improved, the oil companies' environmental practices have often slipped under the radar. Nnimmo Bassey, executive director of Friends of the Earth Nigeria, says that the environment of the Delta, the cause that Saro-Wiwa gave his life to defend, has deteriorated dramatically in the years since the activist's execution. "When Ken Saro-Wiwa campaigned against the degradation of the Ogoni environment, he couldn't have imagined what would have happened after that," says Bassey. "The Ogoni environment was degraded, but what we have now is more massive than that."

The oil companies' most controversial practice is their continued gas flaring. When petroleum is extracted, natural gas known as "associated gas" emerges along with it. In developed countries, companies capture associated gas for use or reinject it into the earth. In Nigeria, they burn most of it on the spot.

A 2007 report by Nigeria's Department of Petroleum Resources documented 117 flare sites in the Delta, some of them beside rural communities that no longer experience darkness at night because of continuous burning. According to the Canadian Public Health Association, flares contain more than 250 toxins, including benzene, mercury and arsenic. A 2005 study by Friends of the Earth Nigeria estimated that flaring in Bayelsa caused forty-nine premature deaths, 4,960 child respiratory illnesses, 120,000 asthma attacks and eight cases of cancer each year. Flares also contribute significantly to climate change: according to a 2002 World Bank memo, gas flares in Nigeria accounted for more greenhouse gas emissions than all other sources in sub-Saharan Africa combined.

Routine gas flaring has been illegal in Nigeria for twenty-five years, with exceptions for fields that are issued ministry-approved certificates. But Shell and the other oil majors have flouted deadline after deadline for ending the practice. The latest government cutoff date to come and go was 2008; the current target is 2011. In June Oil Change International reported that Shell's promised dates for ending flaring in Nigeria have shifted from 2005 to 2008, then to 2009, 2010 and most recently 2013.

A Shell spokesman stated that the company has reduced flaring by 30 percent since 2002, and that it has invested $3 billion toward stopping its flares. The company maintains that its efforts to end flaring have been unsuccessful because security in the Delta is so poor and because the Nigerian government has failed to pay its share of the costs for the infrastructure needed to capture or reinject associated gas. Both of these are genuine obstacles. But internal documents revealed in the *Wiwa v. Shell* case show that in the 1990s Shell modeled the effects of ending gas flares by the year 2000. The company's 1996 Country Business Plan for Nigeria found that "unconstrained flaring" would be more profitable, since abatement is costly and hampers production. While the report stated that the model with unconstrained flares was "solely for reference," the 2000 cutoff date was soon dropped. Michael Watts, a professor at the University of California, Berkeley, and an expert on the Niger Delta, says the government often issues public orders and reprimands to the oil majors but fails to hold them accountable even for outright disregard of its regulations. "No one believes for a moment that

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any of this stuff will be acted upon," says Watts.

The other critical source of contamination in the Delta is oil spills. In the half-century following the discovery of oil in Nigeria, the World Wildlife Foundation noted, the industry spilled 1.5 million tons of oil in the Delta, the equivalent of an *Exxon Valdez* spill each year. Government figures indicate that there are currently 2,472 oil spill sites in the region. These spills often generate protracted disputes over cleanup and compensation. Communities usually blame faulty equipment and demand repayment for damages; Shell claims that the vast majority are caused by sabotage, which does not require compensation by the company. Shell maintains that 85 percent of the oil it spilled in 2008 was a result of criminal activity; environmentalists claim the figure is significantly lower.

Companies are obligated to clean up all spills, a job they are often accused of performing inadequately, late or not at all. Four fishermen from the Delta are suing Shell in a Dutch court for its alleged failure to clean up or compensate for spills that killed all the fish in their ponds. Two of the plaintiffs claim that Shell's cleanup contractor set fire to the spilled crude. On December 30 The Hague Civil Court is expected to decide if it will accept the case, a ruling that will set a precedent on whether parent company Royal Dutch Shell can be held liable for its Nigerian subsidiary. Friends of the Earth Nigeria and local media have also reported five other cases of alleged major oil fires that occurred following spills by Shell. Shell's spokesman noted that "controlled burning of oily debris in appropriately lined pits is permitted by legislation" but said other cleanup methods are more common.

Many Ikarama residents say that the use of fire as a cleanup method is commonplace. Alagoa Morris says he has seen at least six burned oil spill sites in the vicinity. Shell's community relations officer for Ikarama, Tunde Joel, stated that accounts of fires being set to spilled oil, including reports of the March 1 blaze, are fabrications by townspeople angry at being passed over for cleanup contracts. "In Ikarama, no fires," said Joel. "Some few people will say there is fire. These are people who are angry at their brothers, so they are busy writing." Photographs taken by Morris show a massive blaze in Ikarama on March 1.

The costliest ruling Shell has faced was handed down by the Nigerian Parliament in 2000, which ordered the company to pay $1.5 billion to the Ijaw people of Bayelsa for decades of environmental degradation. Shell appealed the decision in Nigerian court, and in 2006 the Federal High Court in Port Harcourt affirmed the Parliament's judgment. Shell appealed again and has yet to pay any compensation. "They keep on using the strategy of avoidance and deliberate delay," says Oronto Douglas, one of Nigeria's leading environmental lawyers. "They don't respect the judicial system in Nigeria."

Years of frustration and poverty have repeatedly boiled over into violence. MEND launched a major offensive in June, blowing up oil facilities, sabotaging pipelines and kidnapping oil workers. Shell was temporarily forced to withdraw its personnel from the Western Niger Delta and saw its production plummet to 140,000 barrels per day from its 2008 average of more than 850,000. The offensive brought the cash-strapped government to the bargaining table to try to restore the flow of oil; it began its sixty-day amnesty initiative on August 6.

Opportunistic gangs are cashing in on the disorder as well. Abductions for profit have soared in the past year; in October Nigeria's thirty-six state governors issued a joint statement calling on the government to institute the death penalty for kidnappers. Even Henry Okah, MEND's most prominent leader, was waylaid in August by armed robbers, who pointed two AK-47s in his face, stole his car and left him and two traveling companions stranded alongside the expressway. The biggest money is in oil bunkering: a massive racket of stealing oil from pipelines and tankers that is believed to include militants, gangs and powerful politicians. A report by the federally appointed Niger Delta Technical Committee found that bunkering cost Nigeria $3 billion in the first seven months of 2008 alone.

Most leading MEND commanders have accepted the federal amnesty. By November 30 national oil production had rebounded to 2.4 million barrels per day, about 700,000 more than output during the summer's conflict. But some Delta activists believe that the cycle of poverty, pollution and conflict cannot be broken as long as the oil continues to flow. Of roughly $700 billion in Nigerian oil revenues since 1960, 85 percent has accrued to 1 percent of the country's population. Nigeria's Human Development Index, as of 2005, was on par with Haiti and the Congo. "Oil has not profited the people of the Niger Delta in any way," says Celestine AkpoBari of the Ogoni Solidarity Forum. AkpoBari believes that no compromise can be reached with Shell and the oil companies following what he describes as a record of continuous environmental and human rights abuses in the region. "They should go and leave our oil under the ground," he says.

If Shell is serious about minimizing its environmental impact in Nigeria, it must extinguish gas flaring and properly clean up all oil spills.

After fifty-three years of drilling oil in Nigeria, Shell has no intention of leaving. But as local and international pressure has mounted, the company has declared its commitment to protecting the environment of the Delta. Shell's Nigeria website states that the objective of its environmental program is to "painstakingly minimise and, where possible, completely eliminate all negative impacts and footprints." Shell further assures that "advanced technology, new ways of operating and partnerships are helping to manage our environmental impact as we contribute to meeting the world's growing energy needs."

If Shell is serious, there are two areas where it can start. First, it must extinguish its gas flares once and for all. The company is making progress toward reductions; in addition to its $3 billion commitment to stop flaring, it recently announced that it had spent $1 billion in the past eighteen months on a project in Bayelsa that will use natural gas that would otherwise be flared. Shell blames the Nigerian government for its inability to meet

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deadlines and estimates that it will require an additional $3 billion to extinguish its flares for good. But by definition, flaring occurs at sites where oil is being extracted. The price tag quoted by the company for ending its flares in Nigeria represents less than 10 percent of Royal Dutch Shell's 2008 profits, which soared to a record high of $31.4 billion.

Second, Shell needs to revisit its approach to oil spills. Acts of sabotage against pipelines are common in the Delta, but so are failures of Shell's infrastructure, much of which dates back to the company's initial expansion in the 1960s. According to Shell data, the company's equipment and errors were responsible for fifty-three spills in 2008, a total that would lead to immediate action anywhere in the developed world.

When spills do occur, Shell needs to clean up its act on cleanups. That means putting an end to the destructive practice of burning spilled crude. It also entails promptly clamping leaks, conducting real remediation of damaged sites and holding contractors accountable for their work. Shell's routine stonewalling on compensation for victims of spills and contamination remains another major source of popular anger in the Delta.

Should Shell fail to act voluntarily, the *Wiwa* case has wedged open the door for a new means of forcing accountability. Though the Alien Tort Claims Act applies to human rights violations and not to ecological damage, Shell faces a flurry of cases for environmental abuse at tribunals from Nigeria to the Netherlands to the court of the Economic Community of West African States. These cases seek to achieve for the environment what the *Wiwa* struggle accomplished for human rights: international outcry, putting Shell's bottom line at stake and ultimately forcing a higher level of caution.

The truce that has emerged in the Delta also offers a historic opportunity for the groups in the region to adopt a new approach. Following the amnesty period and federal revenue-sharing proposal, Shell offered to provide demobilized militants with job training and financial assistance to persuade them against returning to the creeks. Shell's initiative coincides with its efforts to ensure that ailing Nigerian President Umaru Yar'Adua renews its operating licenses. Michael Watts says he is skeptical that the proposals transcend the usual politics of oil money dispensation. But he maintains that for Nigeria, the peace opening represents "one of the most important political moments since the conclusion of its civil war in 1970." The key, says Watts, is whether the state can develop democratic and accountable institutions to serve the Niger Delta.

This role of the Nigerian government is the critical variable in the equation. Protecting the Delta's environment will require stronger regulatory institutions and a groundswell of political will. A number of bills currently before Nigeria's Congress seek to raise environmental standards and tip the balance of power away from the oil companies. A bill that would move the gas flaring deadline up to December 2010 passed the Senate in July, and the hotly debated Petroleum Industry Bill aims to reshape Nigeria's oil industry by creating a state-owned commercial oil company similar to Brazil's Petrobras. The fate of these bills—and whether they are implemented if passed—will mark critical tests of Nigeria's independence and willingness to take on the oil companies.

One contributor to the government's efforts is Ken Saro-Wiwa Jr., the son of the slain activist. A special adviser to the president on climate change, he is developing a new legal and regulatory framework to address the climate challenge. Inspired by the results of his fourteen-year legal battle with the oil giant, the soft-spoken Saro-Wiwa is seeking to bring environmental accountability to Nigeria one regulation at a time.

"Don't get me wrong, a business like Shell is a ruthless organization whose only interest is bottom line," says Saro-Wiwa. If the company can save money by dodging its environmental responsibilities, he continues, there is little doubt that it will pollute. "Their only responsibility is back to their shareholders," he declares. "But we need to change that." ■

Letters

(continued from page 2)

fight it. We never paid ransom to anyone, nor did we ever extort money from people.

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Keep Spreading the Word(s)

JACKSONVILLE, ORE.

Some time ago I believe I coined the word "bureaucrap" and sent it to Molly Ivins. Isn't it more than appropriate for what comes out of the mouths of our politicians? Speaking with a friend about someone who spouts Rush Limbaugh, I said, "He must be a Limbecile." Help me spread these words!

DEE EVERS

Great minds: Google reveals a use of "Limbecile" as early as 1995; it also cites "Limbaulican." —*Ed.*

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Books & the Arts.

GEORGE OSODI/AP

An Ijaw militant drives a speedboat past a Soku oil well in the Niger Delta area of Nigeria, 2004.

Lessons of Darkness

by MARK SORKIN

The first thing Peter Maass encountered when he arrived at Oru Sangama was the stench of raw sewage. The trip from Port Harcourt had not been long, even in a leaky canoe, but the tiny slum seemed a world apart from the sprawling, oil-rich hub of the Niger Delta. Sangama's villagers, housed in a cluster of mud-brick huts, had no access to clean water or electricity. Their toilet was a filmy creek through which ran a network of pipes feeding oil to nearby processing stations. They slept in the glow of the Soku natural gas plant, which lit the night sky with carcinogenic flares. Acid rain was slowly boring holes in their metal roofs.

Across the creek, ample tap water and modern amenities were available to the hundreds of workers living at the Soku facility—one of many plants Shell operates in the region. Shell, which has been doing business in Nigeria since the 1930s, enjoyed exclusive exploration rights during the colonial era. Since Nigeria's independence, however, it has been the dominant player competing with other international oil companies for government contracts. Hundreds of millions of barrels of oil have been extracted from Nigeria in the past fifty years, but the country's 150 million residents have not benefited from the profits. According to the World Bank, 80 percent of Nigeria's vast oil wealth is distributed among 1 percent of the population, while the overwhelming majority of citizens languish on less than $2 a day.

Such gross economic disparities have understandably exacerbated ethnic tensions and helped to fuel a string of rebellions against the state—most notably the Biafran

Crude World
The Violent Twilight of Oil.
By Peter Maass.
Knopf. 276 pp. $27.

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war of 1967–70, a failed Igbo-led secession effort in which as many as 2 million people died. Nigerians have been spared such wide-scale violence since the Biafran disaster, but a low rumble of discord continually pits the military and its corporate allies against the people. By the time Maass arrived in the Niger Delta, in the fall of 2004, an Ijaw warlord named Dokubou Asari had established himself as the region's new "alpha rebel," having amassed a small army and adequate means (acquired through bribes, ransoms and oil illegally siphoned from the pipelines) to fund his uprising. It was Asari, not the Nigerian government or Shell, who granted Maass permission to travel and secured arrangements to take him upriver to Sangama.

A month before Maass visited Sangama, the Nigerian army had decimated the village. Maass didn't accept his guide's explanation that the assault was unprompted. He knew Asari was using Sangama as a stronghold and suspected that Asari or a subordinate was being punished for failing to share the profits from stolen oil. But he was equally dismissive of the Potemkin village Shell had erected in the area to tout its commitment to corporate responsibility (the water tower was dry, the health clinic padlocked, market stalls empty). And at the company's main office in Lagos, he confronted Chris Finlayson, director of operations in Nigeria, with the claim that Shell had provided the soldiers room and board at the Soku facility, and that helicopters had evacuated workers from the site a few hours before the raid—suggesting complicity or at least foreknowledge of an attack that left several civilians dead. Finlayson deftly denied all this, of course. But after investigating the incident for himself, Maass was well equipped to sniff out corporate dissembling, a far more subtle stench than sewage.

There is much in Maass's new book, *Crude World*, a global tour of the "violent twilight of oil," that stinks of corruption. There is also, to cite a few chapter titles, no shortage of plunder, rot, contamination, fear or greed. On the other hand, as Maass illustrates in a chapter on Saudi Arabia, there is very likely a serious and fast-approaching shortage of oil in the world. The global economy has relied for decades on cheap and abundant crude, with far too little regard for the political, economic and environmental consequences of such heavy reliance—not to mention the sustainability crisis that looms ever larger as demand continues to grow.

For activists and politicians seeking to alter our domestic approach to energy, the metaphor of choice is addiction. In order to strengthen our security and ensure a prosperous future, we are repeatedly told, our dependence on foreign oil must be curbed. This familiar trope, lifted from self-help shelves and talk-show television, is paternalistic and misleading. America is sick, it's true, but never fear: your elected leaders have diagnosed the problem and are working on the cure. Take two of these carbon permits and call me in the morning. Maass, though, seems less concerned with soothing readers or pricking their conscience than understanding the sources of the world's most intractable conflicts. Consequently, *Crude World* employs a different set of metaphors. For Maass, oil is not a drug so much as a Pandora's box. Tap the well, and out spews the basest of human instincts.

For Maass, oil is not a drug so much as a Pandora's box. Tap a well and base instincts spew.

The problem with the petroleum business, as with other extractive industries, is not the stuff per se but the convoluted and destabilizing process by which desirous governments collaborate with multinational companies and exporting nations to siphon it out of the ground, filter out impurities and transport it abroad. Factor in the geological fluke that determined which reservoirs got situated under which regimes, plus uniquely high stakes in terms of demand and profit margins, and a near-total lack of transparency and regulation, and you wind up with an industry that's perilously prone to volatility and foul play. OPEC's 1973 embargo of shipments to the United States quadrupled global prices and revealed the world's vulnerability to disruptions in supply. In 2008 a speculative frenzy took the world on another wild ride, as prices shot up to nearly $150 per barrel before plummeting to just over $30, a disconcerting harbinger of instability in the years to come. Once oil "peaks"—that is, once the world passes the high point on a theoretical bell curve measuring production, after which output can only decline (experts disagree about when this will, or did, happen)—price swings will likely intensify along with the mad scramble for dwindling reserves. Costly, low-yield efforts to prospect for new reservoirs deep beneath the ocean floor, and to squeeze salable crude from adulterated tar sands and "heavy" (high-density) oil, reveal the increasing lengths to which today's oil conglomerates and their political enablers will go to keep the pipelines pumping. The International Energy Agency expects a relatively slow rise in the production of conventional liquid fuels over the next generation, coupled with a surge in the development of unconventional sources. This shift may buy some time, but it can't prevent the coming clash between rising demand and declining supply. The specter of a sustainability crisis, experts argue, is reflected in IEA projections of global oil production, which have been dropping steadily in recent years.

Needless to say, climate change and widescale suffering are and will likely remain byproducts of oil extraction. As Maass explains, resource-rich exporters are paradoxically "cursed" by oil wealth. Leaders whose treasuries are flush with foreign cash tend to consider themselves less accountable to their citizens, more prone to shady deals and autocratic rule. Development in other sectors of oil-based economies tends to be stifled: the inflow of petroleum revenues strengthens the local currency, breeding dependence on cheap imports; and labor opportunities in the one thriving sector are minimal. Safety and environmental standards are ignored. In some cases, local residents eventually organize to protect their land and demand their fair share, at which point casualties begin to mount. In other cases (Chávez's Venezuela and Qaddafi's Libya come to mind), nationalization curtails corporate and foreign influence and promotes state investment in social programs, but at the risk of bolstering autocracy and exacerbating regional tensions.

Recognizing that each country's struggle is unique, Maass—a seasoned journalist who is now a contributing writer for *The New York Times Magazine*—visited more than a dozen oil-cursed nations in search of repeating patterns, root causes and common solutions. "Across the world, oil is invoked as a machine of destiny," he writes. "If the inner workings of this machine are understood, perhaps an order will be revealed in the world's disorder." His "journey into oil" began in Iraq. In the spring of 2003, he embedded with the Marines' Third Battalion and got a view from the front lines of the fall of Baghdad. At the time, the twin symbols of the looted National Museum and the heavily guarded Oil Ministry seemed to crystallize the conflict for many observers, including Maass. Upon closer inspection, though, he found

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the simple determinism of "blood for oil" unsatisfactory. If the Bush administration was singularly concerned with controlling a steady flow of Middle East oil, why had it unleashed a regional whirlwind? And if securing the Ministry of Oil was an immediate priority, why, weeks later, was the director of Baghdad's only refinery struggling to persuade US military officers to protect the facility from looters? Maass does not adequately answer such questions in "Desire," his chapter on Iraq's oil conflicts—perhaps because US motives were so abstruse, contradictory and complicated by obscene ineptitude. But his inchoate understanding of the extent to which oil shapes and distorts geopolitics piqued his curiosity. The investigation that ensued would span the globe and keep him occupied for the next several years. Its insights are keen and timely, confirmed with each new oil-related scandal. To take one of the most recent and egregious cases in point: Peter Galbraith, a former US ambassador and top adviser to the Kurds, admitted in October that he had a significant financial stake in Kurdish oil and was negotiating deals while at the same time helping to craft the Iraqi constitution—which just so happened to grant Kurdistan autonomy over its oilfields. "While I may have had interests, I see no conflict," he told the *New York Times*. Others saw it dripping from the corner of his wallet.

Maass readily admits the challenge of "profiling" a subject as elusive as oil. "How do you coax secrets from a liquid?" he asks in the introduction. "To know a person, you talk to him. To know a country, you visit it. To know a religion, you study sacred texts. Oil defies these norms of interrogation.... It is invisible most of the time, but, like gravity, it influences everything we do." His struggle to give form to this inquiry may explain the book's misleading structural conceit. The chapter titles anatomize the industry by isolating its salient features, suggesting a dossier of vices. But with few exceptions, each chapter is set in a different country, suggesting, more accurately, a *tour d'horizon*. At times the pairings of regions with the traits they are meant to exemplify, and the order in which the chapters appear, seem interchangeable. Thankfully, Maass does not adhere too strictly to his schema, allowing it to organize but not constrain his analysis. And though *Crude World* presents a string of episodes rather than a cumulative argument, each installment is riveting and illuminating in its own right. *Crude World* is not the last stop for all things oil. But for nonexperts embarking on their own investigations into energy policy and the devastation wreaked by fossil fuels, it offers many worthy ports of call.

Since the mid-1980s Maass has been filing dispatches from what his colleague Tina Rosenberg has called "the chasm between truth and official truth." His clips offer a trove of object lessons on equipoise, but they also give the lie to the notion that a reporter's role is simply to mediate. Maass is by no means an ideologue or activist, nor does he pretend to hover above the fray. His politics are unobtrusive but never hidden; his moral compass is consistently his most reliable guide. This approach, coupled with an intrepid pursuit of the story and masterful control of its presentation, has served him well.

Maass inserts himself into the story, teases out its human drama and issues a verdict.

In July 1989, while based in South Korea as a correspondent for the *Washington Post*, he was among a small cadre of American journalists invited to Pyongyang for a rare glimpse of the northern half of the peninsula. "Real reporting was not encouraged," he wrote in a short news item. A government official warned him, "If you try to distort the information of my country, it will be the last visit for you and your newspaper." But even though Maass's minders never let him out of their sight, he managed to peek behind the curtain. A tour intended to display only lavish tributes to the Great Leader became, in Maass's telling, an obsessive ritual of control. At the Kochang cooperative farm, an illustration of "cradle-to-grave indoctrination," Maass watched grade-school students answer questions about the president like little automatons, while university students denied any sexual desire before marriage. Working on the regime's strict terms—and within the formal boundaries of beat reporting—Maass portrayed a totalitarian government exerting rigorous control over its people yet anxious over possible ripple effects from the recent uprising in Tiananmen Square, and struggling to ensure a smooth succession of power from President Kim Il Sung to his ill-prepared son, Kim Jong Il. Exposing such cracks in North Korea's "monolithic political facade" while staving off expulsion required a high degree of tact and skill.

Or consider, in *Crude World*, the chapter called "Contamination," in which he travels to the Ecuadorean Amazon. There he meets indigenous activists and Steve Donziger, the American lawyer at the helm of a landmark, multibillion-dollar lawsuit against Chevron, the corporate parent of Texaco, which looted and poisoned the Oriente region for two decades. Chevron does not deny the devastation but claims that Petroecuador, the state-owned company that assumed control of Texaco's facilities in 1992, is at fault. Chevron's lawyers have tried every trick in the book (dirty and clean) to get the case dismissed; in August 2009 they produced secretly recorded conversations that appeared to implicate public officials, including the presiding judge, in a bribery scheme. (The judge denied the charge but recused himself, further postponing the monumental trial.) With stakes this high, it's no surprise to see the case take on the dimensions of a le Carré novel. But for all the intrigue and marathon depositions, Maass writes,

> The case would seem easy to prove, with the billions of gallons of waste akin to blood on the still-slippery floor of a vast crime scene. To find proof, all you needed to do was stick a shovel in the earth, taste the tainted water that came out of the ground or inhale a lungful of the polluted air, as I did. You could visit the towns and see babies with deformities and people dying of cancer. It is because of the oil, you would hear. How could Chevron defend itself against a nation of evidence?

Freed of the strictures of newspaper reporting, Maass inserts himself into the story, teases out its human drama and does not shy from issuing a personal verdict. This can be tricky territory; not every first-person journalist emerges with his credibility intact. But Maass, whose judgments are always informed by the historical record, extensive interviews and time on the ground, pulls it off.

"I followed American troops into Iraq to learn what I could from actions rather than speeches," he writes in *Crude World*. He adhered to a strikingly similar position in his previous book, *Love Thy Neighbor* (1996), a haunting reflection on the Bosnian war distilled from his daily coverage for the *Washington Post*. "If you want to find the truth in

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Bosnia," he wrote, "you must ignore words and examine actions, and even then, you must be careful of the conclusions you draw." *Love Thy Neighbor* is a tour de force of witness and rage, a clear-eyed indictment of Serbian aggression and the Western accomplices that enabled it. The book foregrounds the sort of idiosyncratic anecdotes and personal reflections that typically occur off the clock, revealing a subtler and more psychologically complex portrait of Bosnian life under siege than one could find in daily dispatches. Maass's style calls to mind the Polish journalist and long-form pioneer Ryszard Kapuscinski, whose work he cites in *Crude World*. Kapuscinski is said to have kept two notebooks in the field: one for reporting facts and one for capturing impressions. With *Love Thy Neighbor* Maass folded the two into one.

Although *Love Thy Neighbor* is chronological, it is not straightforward reportage. Part journal, part confession, the book traces Maass's journey across the landscape of the war while charting his slow surrender to moral exhaustion. In the early days, he recalls, he remained curious and vigilant, even in the face of atrocity. Days after photos of skeletal Bosnian prisoners began circling the globe, he requested and was granted permission to visit the camps. At Omarska, an abandoned mining compound that had been converted for the day into a showpiece POW facility, he declined to interview any of the prisoners for fear of somehow hastening their execution. ("Please, don't ask me questions," one of them pleaded.) Later, in an interview he described as "hallucinogenic," he boldly confronted Bosnian Serb leader Radovan Karadzic with what he had seen. "We opened our entire prisons to the media, and the media focused on one very thin boy," Karadzic insisted. One way to understand the war, Maass suggests, is to grapple with the persistent triumph of such "official truths" over blaring evidence to the contrary. But he also offers another, quasi-Hobbesian explanation: within human nature, he suggests, lies a "wild beast" that's always "waiting in the long grass of history for the right moment to pounce." After monitoring the beast's every move for more than a year, and watching Western nations feed it with arms embargoes and diplomatic sleights of hand, Maass, his spirit drained, pulled out.

Despite some similarities in approach, *Love Thy Neighbor* and *Crude World* are vastly different projects. *Love Thy Neighbor* is the product of significant immersion; it must have taken months in such a dark horror chamber before Maass's eyes began to adjust. *Crude World* is an international hopscotch; its insights are therefore more provisional, less textured. "The world of oil is an intellectual as much as a physical space," he writes. Indeed it is, and its radius is continually expanding as demand seeps into the developing world and new fields are opened to prospecting. Maass's impulse to move around is understandable. But one wonders what the world of oil would have looked like had he regarded it from a single vantage point. In an abstract sense, of course, he did. No matter where he is situated, he fixes his eye on the power dynamics that make the "machine of destiny" hum and allow it to roll over so many people. But since each outpost reveals the global supply chain, perhaps it would have been more fruitful for him to dig in.

Crude World is mercifully light on policy recommendations, but they are not absent. In a brief conclusion, Maass proposes a few ways to put the brakes on the oil industry. Some are familiar: stronger regulation, investment in renewable energy, dramatic reductions in carbon emissions, conservation, wind farms, light rail. Others have not yet made their way into mainstream discussion but should. Compulsory disclosure of all oil contracts would help bring much-needed accountability to the signatories. The Justice Department can apply the Foreign Corrupt Practices Act to prosecute US conglomerates that broker illegal deals with governments overseas. Development aid, properly administered, can foster the use of greener fuels and technologies and decrease the value of oil, while limiting the potential for developed nations to exploit a new market. The United States, the world's largest consumer of oil by a wide margin, should set the example on all these fronts.

Maass, who has made a career of spotting gaps between rhetoric and action, does not seem sanguine about the prospects of a green revolution. Nor is this book intended as a catalyst. *Crude World* may wind up shelved in the growing library of books that chart paths toward a sustainable future, but it belongs in a different class. The book is not about oil policy or the energy crisis, at least not primarily; it is a moral reckoning with basic instincts. Fear, greed, desire, exploitation: as we draw oil from the ground, oil draws out these unflattering qualities in us. Crude world, indeed. When Maass peers down the well, he sees another beast writhing. ■

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MICHAEL ALEXANDER/AP

Rescuers approach the *Golden Venture* on June 6, 1993, off the coast of New York City.

Human Traffic

by TED CONOVER

Sometimes journalists can only describe, not explain. Certainly that was the case when the tattered freight ship the *Golden Venture* beached itself on New York's Rockaway peninsula in June 1993, disgorging from its fetid hold a cargo of 286 undocumented Chinese, ten of whom died while struggling to swim to shore. The national reaction was one of shock—at the time there was little public awareness that Chinese were sneaking into the country in this manner, in such numbers and at such expense: $30,000, it was soon revealed, was the starting price of the squalid passage. Passengers in this rust bucket had lived below decks for months without sanitation or adequate food, and been subject to harassment by representatives of the "snakeheads," or smugglers, who set the whole thing up. But who the snakeheads were; why it was happening now; why the nighttime landing, inside New York City, within miles of the Statue of Liberty, was so brazen—all cried out for explanation.

I knew about smuggling over the Mexican border from crossings I'd made for my book *Coyotes*. So when *The New York Times Magazine* assigned me to write a follow-up to all the news stories—the sort of now-take-a-deep-breath-and-try-to-explain exercise that can only be done well after the fact—I figured I could come through with the goods. I visited *Golden Venture* detainees in prison in Pennsylvania, talked with recent immigrants from China, fixers in Chinatown and Chinese-American professors, and got everything I could out of the FBI and Immigration and Naturalization Service. After a couple of months I had a fine collection of puzzle pieces—but only hunches about how they fit together. Those who knew weren't talking yet. Lacking the big picture about the *Golden Venture*, I wrote instead of the state of political asylum (see below) and waited for the day when the explanations would come.

Well, sixteen years later, that day is here. In Patrick Radden Keefe's *The Snakehead: An Epic Tale of the Chinatown Underworld and the American Dream* we finally have a satisfying, comprehensive account of the *Golden Venture* debacle and its place in the larger story of people smuggling and US immigration policy. In fact, it is not only satisfying; it is excellent. Keefe, a contributor to *Slate* and *The New Yorker* with one previous book to his name (*Chatter: Dispatches From the Secret World of Global Eavesdropping*), has done an immense amount of research around the globe; if the *Golden Venture* beaching was the tip of an iceberg, then here, finally, is the iceberg.

Our enlightenment begins with context: most of the migrants came from Fujian Province in southeastern China. This was known soon after the *Golden Venture* grounded, but Keefe tells us about the place (poor, mountainous, situated on the coast across the strait from Taiwan) and about precedents for "this peculiar type of population displacement, in which the people of a handful of villages seem to relocate en masse to another country within a short span of time"—in New York City they include Calabrians relocating to Mulberry Street in Little Italy at the turn of the twentieth century. Such regional migrations can take on a momentum of their own; Keefe writes, enlighteningly, that they are driven not simply by poverty but, once under way, by the disparities in income between families related to emigrants (who receive remittances allowing them to live large) and families who are not.

He also describes the pull factors, which included not simply the perennial economic opportunities of the Golden Mountain, as the United States is known in China, but the declaration by President George H.W. Bush in 1990 that the United States stood by those whose childbearing rights were trampled by oppressive governments. Bush's executive order made this, if not a matter of law, a clear statement of his preferences, and Chinese had no difficulty reading the tea leaves.

Keefe's main narrative strand is the tale of Cheng Chui Ping, also known as Sister Ping, a Fujianese who immigrated legally in 1981. During an interview for her visa, Cheng Chui Ping had expressed a desire to work as a domestic servant. But it seems that was never in the cards. Not long after her arrival, she responded to the burgeoning demand for passage from her homeland by establishing a smuggling operation out of her variety store in New York's Chinatown. (She also ran a money transfer business by undercutting the fees charged by the huge Bank of China, which had a branch right across the street from her shop.) She arranged for Chinese to be smuggled over the border with Mexico, and over the border with Canada, too. The

The Snakehead
An Epic Tale of the Chinatown Underworld and the American Dream.
By Patrick Radden Keefe.
Doubleday. 414 pp. $27.50.

Ted Conover is a writer in residence at NYU. His new book, The Routes of Man: How Roads Are Changing the World and the Way We Live Today, *is forthcoming from Knopf.*

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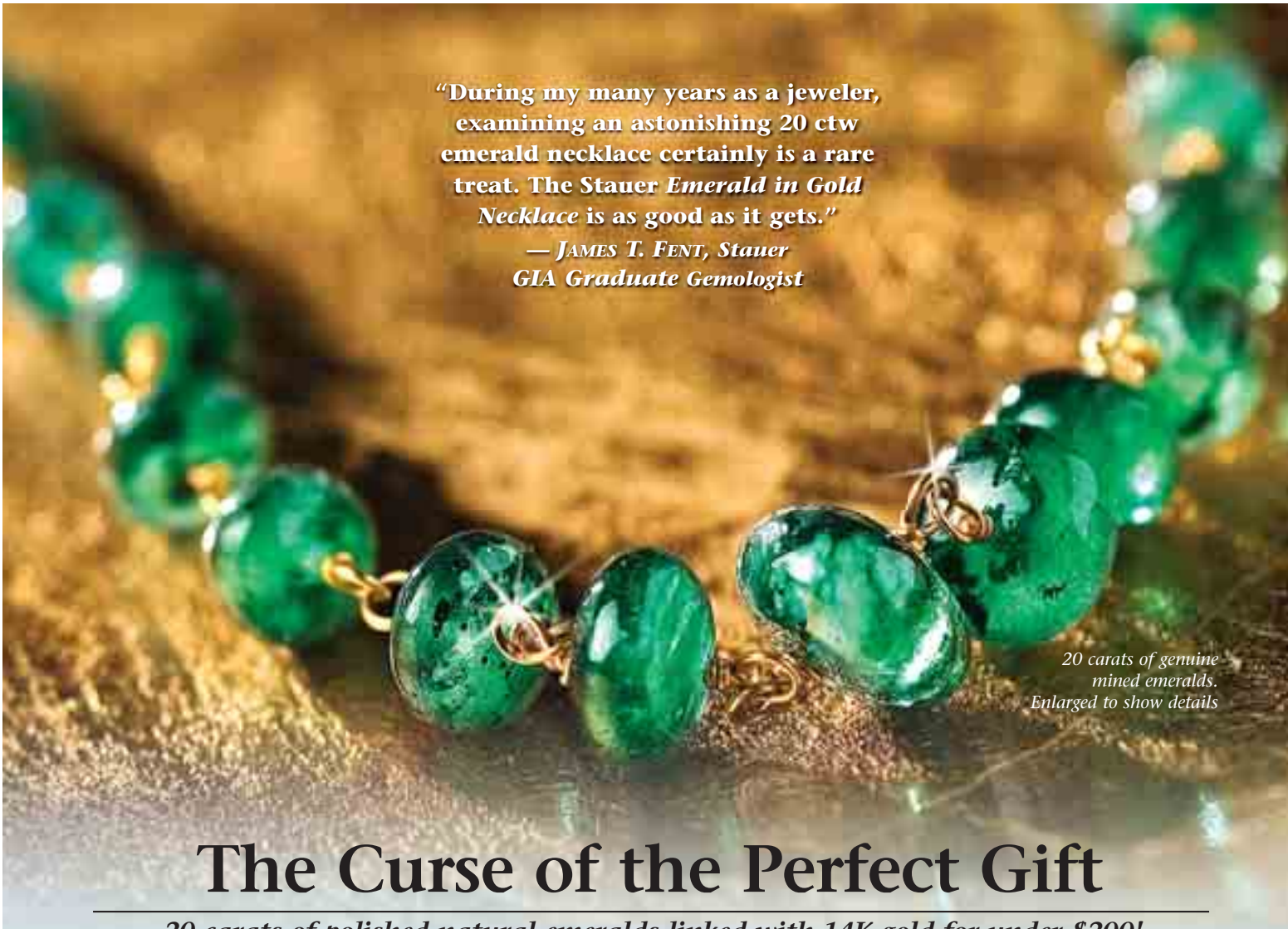
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I'll try, my friend, to charge my memory!

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languish and expire like the others
in my poems
(the garbage heap of all my Casanovas!).

So you won't
be washed by rains for millennia, buried
in my breast
(mass grave for a thousand breasts!)…

So you won't
—you, my two-starred utter dark!—
end up one
more corpse, gravemarker: Unknown.

MARINA TSVETAEVA

(*Translated from the Russian by Catherine Ciepiela*)

Coast Guard stopped a boat heading to Florida from the Bahamas that was carrying twelve undocumented Fujianese. When authorities checked the phone records of the man who leased it, they found he had made one call to New York City on the day of the voyage—to Sister Ping's variety store. Not that she actually guided clients herself; it seems that in most cases, Sister Ping instead was more like a general contractor. She would oversee an operation, handling the money, guaranteeing the result and, with her husband, supervising subcontractors who managed the logistics of transport.

Other criminals in the Chinatown underworld were jealous of her success. One of them was a young man named Ah Kay, the head of a Chinatown gang known as the Fuk Ching. Ah Kay, famous for his brutality in shaking down restaurant owners and other businesspeople, twice in the 1980s tried to rob Sister Ping, whom he figured had a lot of cash squirreled in her residence from the money transfer business. Both times her children were held at gunpoint while Ah Kay's men searched for money. The first time they netted only $1,000; the second, they scored $20,000 from her refrigerator.

Despite this history, business came first for Sister Ping. In September 1992, she had a boat off the coast of Boston loaded with more than 100 illegal migrants who needed to be brought to shore. Ah Kay had provided this "offloading" service to other snakeheads, but he had a different history with Sister Ping. When she approached him for help, according to courtroom testimony, he hastened to apologize for the armed robberies. "Sorry, Sister Ping," he said. "Everyone has their past." She replied, "That's what happened in the past. We're talking business now." In exchange for $750,000, Ah Kay sent a deputy on a fishing boat 200 miles out to Sister Ping's boat. The immigrants were deposited quietly on a wharf in New Bedford, Massachusetts, shortly after midnight: mission accomplished.

They would work together again on the *Golden Venture*, but this time the collaboration was very different. A third smuggler, Weng Yu Hui, who had himself been brought into the United States by Sister Ping in 1984, was the snakehead in chief behind an aging ship, the *Najd II*, which left Bangkok for the United States with 240 passengers in July 1992. The vessel ran aground briefly in Malaysia, then developed engine trouble en route to the island of Mauritius, where its Australian captain abandoned ship. Finally, in October, it limped into the port of Mombasa, Kenya, and went no further.

Trying to salvage the enterprise, Weng Yu Hui met with, among others, Ah Kay, who agreed to put up the money for the new boat. Weng also spoke with Sister Ping, assuring her that space would be saved on the boat for twenty clients of hers who happened also to be stuck in Mombasa. She still owed Ah Kay $300,000 for the offloading in New Bedford, and wired it to the people who would purchase a replacement craft.

Among the many interesting revelations of *The Snakehead* is that the US government knew that a cargo of undocumented Chinese was headed here from Mombasa months before they arrived. Soon after the *Najd II* docked in Mombasa, Keefe writes, "representatives from Mombasa's Missions to Seamen contacted the small US consulate in the city and explained the situation." Months later, an INS agent based in Kenya alerted American officials that the *Najd II* had been emptied and a different boat full of Chinese, the *Gold Future*, was possibly headed for the United States via the Cape of Good Hope. He had the right idea but the wrong ship; American intelligence reports at the time were full of partial and conflicting information.

"Ironically enough," writes Keefe, "the officials could have gained a much better understanding of the situation if they had simply consulted the newspaper." On April 4, 1993, the *South China Morning Post* correctly reported that "a ship carrying hundreds of illegal Chinese immigrants is on its way to the United States." Keefe writes, "The Hong Kong-based newspaper exhibited no confusion about the names of the ships or the sequence of events, and explained that the immigrants were now bound for the United States 'aboard a Honduran-registered fishing trawler MV *Golden Venture*.'"

Unfortunately, the ship's arrival in the United States would not go as smoothly as the arrival of the vessel that had unloaded at New Bedford in 1992. Ah Kay, though a major investor in the trip, had had to go into hiding in the meantime because of strife with another gang. Nobody could be found to offload the passengers; while the smugglers looked, the *Golden Venture* waited. And the Coast Guard, Keefe reports, noticed: a surveillance plane spotted the ship southeast of Nantucket the morning of June 4, 1993, and reported it as DIW (dead in the water)—in other words, not moving. It "was quite close to shore, and as it approached New York its course took it on a trajectory that ran directly perpendicular to the shipping lanes in the area—a dangerous move, and one that might have attracted some notice," he writes, adding that, as the

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boat sailed slowly toward Rockaway the next evening, "the Coast Guard dispatched boats to intercept it. But they couldn't find it." (Unfortunately, Keefe is unable to offer further information about why this would be.)

Other disturbing revelations abound. Government officials had Sister Ping and her husband in custody long before the *Golden Venture* disaster, in connection with smuggling schemes including an incident near Niagara Falls in which four people died. But apparently they figured Sister Ping and her husband for bit players; he never went to prison, and she served only a four-month sentence. Well before the *Golden Venture* grounded, an INS employee, Joe Occhipinti, had perceived the scope of the smuggling from China and proposed that a multi-agency task force be formed to take it on; the suggestion was never acted upon. Ah Kay, the Fuk Ching gang leader responsible for several murders and untold other violence, became a government witness against Sister Ping and others and in exchange was quietly released from prison. (He is now under witness protection.) And even though there was an active warrant out for his arrest, Sister Ping's husband was naturalized in 1996.

Americans are sadly accustomed to bureaucratic incompetence regarding most matters involving immigration. Ultimately more worrying, however, is our national ambivalence about new citizens; it's hard to find a better example of this than President George H.W. Bush's actions with regard to immigration and China. Following the Tiananmen Square uprising, Bush was clearly tortured. He wanted to show American disapproval while preserving a working relationship with the Chinese. He halted sales of military equipment to the People's Liberation Army, for example, but rejected the idea of broad economic sanctions. He also wanted to protect dissidents, such as the Beijing astrophysicist who sought refuge at the US Embassy during the crackdown, and it was in connection with this that he issued the fateful executive decree. First, said Bush, any Chinese citizen who was in the United States before the crackdown should not be forcibly removed by immigration agents. Keefe, noting that the directive effectively offered safe haven to 80,000 Chinese students, calls it "a kind of founding document for the Fujianese community in America."

A second part of the order, writes Keefe, "would unwittingly facilitate the snakehead trade and set the stage for an epic influx of undocumented Chinese." This was Section 4, where Bush directed officials to provide for "enhanced consideration" under immigration laws for people "who express a fear of persecution upon return to their country related to that country's policy of forced abortion or coerced sterilization." In Keefe's words, "the breadth of the provision led to the de facto result that any fertile Chinese person, whether a parent or not, suddenly became a potential political refugee in the United States." It was an "unambiguous invitation," and the effects were unmistakable: "in 1992 political asylum was granted to roughly 85 percent of the undocumented Chinese immigrants who requested it, a rate almost three times higher than for immigrants from other countries. 'The Fujianese thank two people,' a Chinatown real estate broker who emigrated in the 1980s observed. 'One is Cheng Chui Ping [Sister Ping]. And one is George Bush the father.'"

Keefe consulted an impressive array of sources in piecing together this book. Many were in law enforcement—agents of the FBI and the immigration service seem to have been especially forthcoming. Where others were not, Keefe dug deeper. His source notes reveal that many details of the scene from that horrific night on Rockaway Beach come from Keefe's Freedom of Information Act requests for the reports of first responders, such as agents of the US Park Service Police. Outside law enforcement, Keefe spoke to attorneys, White House staffers and all kinds of people in New York's Chinatown. In York, Pennsylvania, where many of the migrants spent more than three years in prison, he spoke with volunteer lawyers and a committee of advocates for the men in prison. And he interviewed many of the migrants, including one, Sean Chen, who left Fujian with snakeheads in 1991; traveled overland through Burma to Thailand; languished in Bangkok until July 1992, when he boarded the *Najd II*; languished in Mombasa until April 1993, when he boarded the *Golden Venture*; and then languished in York until President Bill Clinton ordered him and all other *Golden Venture* detainees freed on Valentine's Day 1997.

Sister Ping's life, however, was moving in the opposite direction. In 2006 she was convicted of smuggling-related crimes and sentenced by then-judge Michael Mukasey to thirty-five years in prison. (When Keefe wrote her there asking for an interview, she replied, "What's in it for me?")

Keefe's book ends with his visit to the man who was head of the regional immigration service office in New York at the time of the *Golden Venture* landing, the man who decided that, instead of releasing the migrants pending disposition of their cases in immigration court, as was the common practice, he would detain them indefinitely. I remember thinking at the time how heartless William Slattery was and, with his inflammatory pronouncements, how nasty. But with a fairness that's characteristic of his approach, Keefe explains some of Slattery's thinking. There was a snakehead boom under way; Chinese asylum seekers were arriving by the boatload. At the top of his agency there was a vacuum: Bill Clinton had been in office only six months, and his nominee for INS commissioner, Doris Meissner, had not yet been confirmed. Slattery tells Keefe that no higher-up told him to detain the migrants, but nor did they say not to. Washington, in Slattery's mind, was "terrified, paralyzed by its own indecision." The brazen landing inside New York City "was a final, unmistakable *fuck you* from the smugglers to the United States government, and Slattery took it personally." "I led. Washington followed," he brags to Keefe.

> Ah Kay's men stole $20,000 from Sister Ping's refrigerator, yet the two still did business.

Slattery's anger probably reflected that of many; snakeheads like Sister Ping were clearly out to exploit the good will of the United States. Now retired in Florida, Slattery "to this day…is skeptical about the asylum claims of the passengers aboard the *Golden Venture*," writes Keefe, and once you have in hand this larger picture, it's hard not to share that skepticism. Or to agree with Slattery's current, pragmatic position that, having been here so long, the *Golden Venture* passengers should of course be allowed to stay.

The immigration official is not the only player in this tale that has found its final resting place in Florida. After being auctioned off by the US Marshals in 1993 (and repainted, and renamed the *United Caribbean*), the former *Golden Venture* carried cargo for a while before the new owner abandoned it in the Miami River. Keefe reports that eventually local authorities decided to sink the ship and turn it into an artificial reef for divers. That's its final act, out in the Boca Raton Inlet. I think no one was sad to see it go. ■

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The Resistance of Painting

by BARRY SCHWABSKY

Abstract painting is nearing its centenary. Although what exactly abstraction is, who first achieved it, and when and where, are questions open to interpretation, the best art-historical thinking dates its inception to around 1912, when Wassily Kandinsky, Kazimir Malevich, Robert Delaunay, Piet Mondrian and Arthur Dove quite separately made their breakthroughs across two continents. While it's not always true of people that young revolutionaries become old conservatives, it seems almost inevitable that in the arts as much as politics, radical ideas and movements whose glory is not preserved by quick defeat turn into shibboleths and establishments.

It would be easy to make the argument that abstraction has long since settled into its comfortable dotage—that it has become an art choking on good taste and mannered reticence. On this view, abstraction was deposed by movements of the 1960s such as Pop Art, with its rehabilitation of vernacular imagery and its immersion in demotic culture; Conceptual Art, with its emphasis on language and critical context; and even Minimalism, which (despite its inheritance from the Constructivist strain within abstraction) laid such great stress on what its foremost detractor decried as mere "objecthood" that a boundary was fatally breached between art and everyday things.

That's not how things look to me, though, and not only because a view of art focused on movements that succeed one another like waves crashing ineffectually against the shore has never answered to my experience of art, which has mostly centered on individual artists and particular works. Abstraction arguably should have even less to do with movements than any other art: a movement of abstractionists would be a contradiction in terms, like a church of atheists. Abstractionists, like atheists, are united only in what they reject. Abstraction is not a specific way of doing art—on what basis can Jackson Pollock, Lucio Fontana and Daniel Buren be considered part of a single movement? Rather, it is a considered effort not to do what Western artists have made it their job to do for hundreds of years: namely, to construct credible depictions of people, places and things. What if anything else goes?

Perhaps that's why, as Bob Nickas points out in his new book *Painting Abstraction: New Elements in Abstract Painting* (Phaidon Press; $75), "so many contemporary artists who paint nonrepresentational pictures reject the notion that their work is in fact abstract." They realize that the name itself, as handy and unavoidable as it undoubtedly may be, conveys a false sense of unity. Other commonalities, even those that would rightly strike us as quite superficial, can be more important. Consider, for example, two painters who make very small paintings that are introspective and intimate in feeling. Though one of them paints images and the other does not, one might well feel that they have much more in common than either one does with a painter who prefers to work on a grand scale and with reference to important public issues. Yet no one would think of grouping the two artists together as part of a "small-scale art" movement—one called, say, "intimism." Why, then, is abstractionism as an idea any more relevant than intimism as an idea?

PETER BLUM GALLERY, NEW YORK CITY

After Joy Division (2009), by Rosy Keyser

In fact, there is a good reason for it: the making of pictures is not merely a historical inheritance for painting but its default mode. The pursuit of abstraction is always to some extent a mode of resistance. There was a brief period when this fact could have been forgotten, and while that period was arguably that of abstract painting's triumph—I am referring, of course, to the fifteen years following the end of World War II—it was also when abstraction threatened to become an orthodoxy, which would have killed its spirit. You might say that all those artists who turned away from abstraction in the 1960s and '70s were honoring it in the breach rather than the observance. Then, once again, abstraction could become an art for aesthetic dissidents.

Raoul De Keyser is one of them. If there were a school of contemporary intimists, critics would be tempted to see his work as part of it, but his paintings would never really allow for it—they're too tough and too phlegmatic. His career illustrates the stealth with which the best abstract painting often proceeds today. (Not long ago Raphael Rubinstein characterized De Keyser's work, among that of other "provisional painters," as "major painting masquerading as minor painting.") De Keyser was born in 1930 in the Flemish town of Deinze, Belgium, where he still lives, and his reputation was almost entirely confined to his home country and the Netherlands until 1990, when he began exhibiting regularly abroad, first in Germany and then throughout Europe and further afield, not only in one-person shows but in big international exhibitions like Documenta 9 (Kassel, 1992) and "The Broken Mirror," an important painting survey in Vienna in 1993. Being championed by Luc Tuymans, a much younger and more famous Flemish painter, could not have hurt.

At David Zwirner Gallery in New York City, De Keyser recently showed several series of drawings and watercolors from 1979 to 1982 alongside paintings finished over the past three years (several were started as long ago as 1998). Some of the works on paper use large, simple blocky forms; in others, fields of small marks create a sort of broken, refracted visual texture that's surprisingly reminiscent of Impressionism. References to landscape are rife. Each of the "Hill Series," from 1981, contains a single large five-sided shape in black ink, its edges nearly parallel with those of the sheet on which it has been

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drawn, except that one of its upper corners has been replaced by a diagonal line, like the slope of a hill. There is some bare white paper around all the sides of the resulting irregular pentagon, so that despite the reference to nature that the title insists on, it always remains a closed shape, never becoming a view of something larger. The trick—this short-circuiting of reference and abstraction—is simple but effective, so much so that it could easily have been irritating, except that the execution of it is so blunt and unpretentious that the quizzical feeling evoked by this play, not only between abstraction and image but between earnest concentration and triviality, evokes an almost childlike freshness of vision.

One of De Keyser's new paintings shows him looking back at the same idea. It contains a single large red form with a sloping top and with a white surround. It's about the same size as the drawings too. The funny thing is its title, *Complex* (2009): it's the least complex of the seventeen paintings that were shown. All the rest are simple enough, but in odder, sometimes seemingly arbitrary ways. Mark Rothko once visited a fellow artist's studio and, after studying his works carefully, declared that he couldn't see the point of them because their forms were too numerous: "I can understand that two are man and woman, three are man, woman and child, but five are nothing." De Keyser's are often, in Rothko's sense, paintings of nothing—of very little that is somehow also too much. Often there are no more than two or three colors, but there is no drama of opposition or synthesis. A multiplicity of small, detached, nondescript shapes seems to echo the randomness that snapshots have taught us to see in everyday life, but only rarely in these paintings do everyday things come into focus, as does the red banner in *Turkish 1 Mai in Belgium* (2009) or the distant mountain peak in *Top* (2009). More often there is a rough geometry that seems to describe something or other but nothing in particular, as in *Company* (2008) or the teasingly titled *Scene* (2008). Remembering that De Keyser had been a sportswriter as a young man, I wondered whether *Scene* depicts some twisted goal posts, but I couldn't quite see it that way. Still, something is being seen through these paintings, but glancingly, out of the corner of one's eye, even when the shapes are outlined with graphic clarity (though De Keyser is almost as likely to show you a blur). Always, there's something rather blank and awkward about them that carries an inescapable poignancy: what one sees in them seems to be the mere vestiges of something that disappeared in the very act of being grasped. Undemonstrative, these paintings nonetheless bear a distinctive timbre or vibration of feeling. Their sensuality is in their very dryness.

Joanne Greenbaum is a New York–based painter born in 1953—some twenty years after De Keyser. She, too, worked under the radar for a good while; she began showing her work only when she was in her 40s, and her first one-person museum show took place in 2008, in Mönchengladbach, Germany. She is no more representative of her generation than De Keyser is of his, but like him she has been a favorite of fellow painters, most notably, in her case, Mary Heilmann, whose gloss of Greenbaum's early work is worth quoting here, for the sake of its descriptive energy (which matches the nondescriptive energy of the paintings) and the way it highlights how Greenbaum's work has changed: "Joanne seemed to be remembering the atmosphere of a festive female experience of the 60s. She created paintings that floated bright-colored floral arabesques or bordered clear white spaces with curtain-like symmetrical curves. These baroque or carnivalesque motifs reminded me of the magical Edwardian style that was the 60s of Donovan, Nick Drake, flower power, Pappagallo shoes, Marimekko dresses, Courrèges boots, the toodle of renaissance commedia del arte pipes." I don't even know what Pappagallo shoes are, or were, but because I know "*pappagallo*" means "parrot" in Italian, I imagine they positively squawk with color. Greenbaum's early paintings certainly weren't afraid of bright colors, but these were expressed as lines on a white ground, as if to keep painting as close as possible to the immediacy of drawing—of scribbling, really, perhaps with Magic Markers. There was something light and airy about the paintings, maybe too light, but there was also something Heilmann's description leaves out: a sense of anxious hyperactivity, a constant zigging and zagging that suggested there must have been something irritating or unpleasant that needed to be zigged and zagged away from. This jittery energy belied the paintings' first impression of insouciance and gave them their intrigue, but ultimately looking at them could end up being more exhausting than pleasurable.

That kind of painting was not included in Greenbaum's recent show, "Hollywood Squares," at D'Amelio Terras in New York City, and yet in a less obvious sense it was included—buried under the denser surfaces of her new paintings. Not literally: Greenbaum hadn't taken some old paintings and painted over them, or even worked on the paintings over a long period of time so that her intentions and methods could change in the course of their making. (In fact, the eight paintings were made in just two months.) But still, the paintings feel that way, with marks that have the zip and bounce of those in Greenbaum's earlier work, but now mostly just peeking out from behind more thickly slathered-on passages, often of black or otherwise dark coloring. The paint seems to have been laid on with an almost Germanic vehemence, as if she had begun paying close attention to painters like Georg Baselitz or Markus Lüpertz or Martin Kippenberger. The paintings were made following a stay in Berlin, so perhaps she was.

The eight paintings—all of them, despite the show's title, just slightly off-square (80 inches by 78 inches)—gain a lot from their newfound density and gravity. Greenbaum's work has always been refreshingly idiosyncratic, but idiosyncrasy was always just a step away from mannerism; before, the mannerism often seemed like a way of avoiding something. These muscular new paintings feel like they no longer need to evade anything. It's not that the paintings are saturated with seriousness now. In bringing together evocations of distinct emotional registers, the paintings evince genuine irony. And the playful linear meanders that still work their way in and out of the heavier, more emphatically painted sections seem more fully playful and not so evasive. Paul Klee once spoke of taking "a line out for a walk." Too often it used to seem as if Greenbaum was taking it on a wild goose chase, but these days it's more like she's following it to the heart of a feeling, where you can't always see it anymore.

Rosy Keyser—born in Baltimore in 1974, now based in Brooklyn and upstate New York—is presumably no relation to Raoul, and no more so is her art related to his, except in the fact of its independence. I had not seen her paintings before walking into her recent exhibition, "The Moon Ate Me," at Peter Blum Gallery in Chelsea, but what I saw made a big impression. Keyser's paintings connect to a tradition that has been pretty unfashionable for a while now, one that values raw but theatrical mark-making and in which paint-as-material (and sometimes material-as-paint) is more important than paint-as-color. She seems to be working less in the vein of New York Abstract

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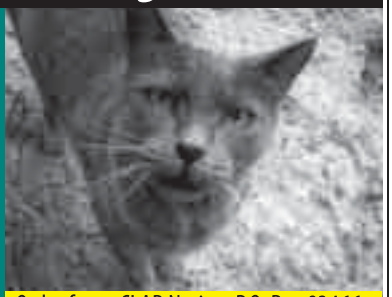
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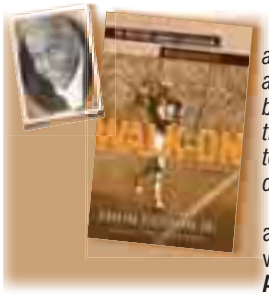
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Expressionism than of European painters like Antoni Tàpies and Alberto Burri, but also of another American much influenced by European painting, Julian Schnabel. So, for instance, she doesn't use artist's oils or acrylics, preferring the house painter's enamel and the graffitist's spray paint, along with dye and all sorts of montaged materials such as leather and flattened beer cans.

Keyser's paintings are physically imposing, but she seems just as interested in breaking down their material obduracy as in building it up. For instance, *After Joy Division* (2009) is a vertical canvas densely covered with a field of mostly blue, black and gray marks. A large vertical rectangle has been cut out of the center of the canvas to reveal, behind it, a loosely woven grid of heavy ropes with tangles of string (painted with the same colors as the canvas) running on and through it, and behind all that the wall itself on which the painting hangs. That central portion is a violation of the canvas but at the same time appears to be a sort of magnified analysis of it. My favorite paintings in the show went even further in this direction. *Heaven and Other Poems* and *The Ray*, both from 2009, eschewed the idea of a canvas support altogether, using the wooden stretcher as a framework on which to mount a variety of materials, most notably quantities of fringe fabric, which are in places dyed, painted or caked with sawdust. There's something almost excruciatingly tactile about these works—I found it hard to resist the urge to thrum my fingers across those overlapping layers of fabric trim. At the same time, the superimposed layers of vertical filaments (acting here as stand-ins for the lines of dripped paint that occur in the work of some post–Abstract Expressionists) created a rich optical effect, a genuinely painterly shimmering. Not only do these paintings combine the essentially sculptural manipulations of materials in real space with the pictorial evocation of an uncannily deep virtual space but by using ordinary materials as signs for painterly effects, they also pursue an analytical discourse about painting through the activity of actually painting.

Keyser has also turned her hand to sculpture, and so far the results have been comparatively thin. *Echo Chamber* (2009), for instance, is a loop of iron chain forming an upright circle about three feet in diameter, with a second half-loop of chain attached to it at an angle, thus describing an implicit sphere. Presumably this is the basic idea: an imaginary object of considerable volume is described by obdurately physical elements of little volume. But here, unlike in Keyser's physical paintings, the idea is more engaging than its realization. There's also the little problem of the flat rectangular iron plate that acts as a base for the sculpture: it fulfills a physical necessity (without it the sculpture would not stand) but no aesthetic or conceptual one. This would be a problem in any case, but from an artist who has managed to put a normally hidden, aesthetically unaccountable part of the painting-object—namely, the stretcher—to significant artistic use, this is especially disappointing.

What these three artists of three different generations have in common may be little but the label "abstraction." In *Painting Abstraction*, Nickas presents a broad survey of recent efforts in the field, ranging from the work of veterans—some of them underrecognized, like Alan Uglow and Stanley Whitney—to some of the most promising young painters around, such as Kim Fisher and Varda Caivano. He organizes their work into six broad themes that end up seeming completely arbitrary because almost any of the artists he writes about engage significantly with at least half of them. Greenbaum, for instance, is included in the section on "Color and Structure," which seems reasonable enough—until you begin to consider that she could equally well have been featured in the section on "Form, Space, and Scale," or the one on "The Act of Painting." One would be hard put to find a painter, abstract or otherwise, who isn't concerned with these kinds of basic formal issues, though abstractionists certainly put greater stress on them than painters who work with images. Still, I'm not sure they suffice to account for what's most engaging in their work. Nickas writes convincingly of the painters one by one. He says of Greenbaum's paintings, "If they're maps, they offer many directions in which to be lost. As architecture they would most likely be unbuildable; as music they would be unplayable." Having seen the paintings, I nod my head, thinking, Yes, it's something like that. He knows very well, though he never quite says so, that the underlying subjects of his artists are emotional ones that can be spoken about only through metaphor, and for which the painter's means—color, structure, form, scale—are metaphors too, and not ends in themselves. But while his book demonstrates that there is a lot of strong abstract painting being done today—and, it must be said, some tired and facile abstraction as well—it doesn't begin to suggest why. Maybe no one can do that, because abstraction is no longer a single project, if it ever was one at all. ■

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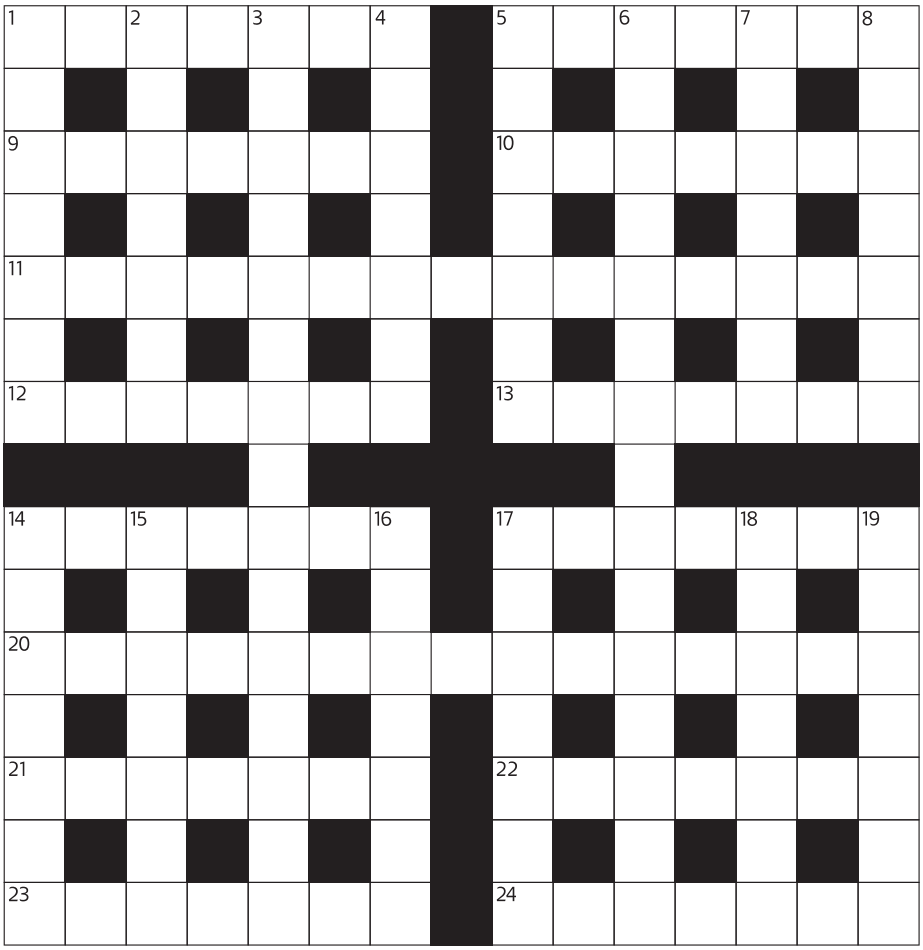

ACROSS

1 Remembers what one does when the line is busy. (7)

5 Hindrance to a novice when it comes from a drum. (3,1,3)

9 Stick or coat. (7)

10 Regular in the army. (7)

11 Not a quality of brunettes. (15)

12 In play they are found in stones. (7)

13 Its end lies in a kind of oil. (7)

14 Petruchio was evermore this. (7)

17 Made trips after father came back. (7)

20 Fritz doesn't keep it so much now. (5,2,3,5)

21 Not Taft's daughter that Hope supported. (7)

22 Bitter complaint, on the verge of flight. (7)

23 Gone off because it's rest day. (7)

24 When in the air they are flying fortresses? (7)

DOWN

1 Effects a change of lusters. (7)

2 Noise or more noise. (7)

3 Implies neither Truman nor Lee was a dark-horse! (5, 5, 5)

4 Are needed when chiefs make such cries. (7)

5 A verse is never square to the Spanish. (7)

6 One can hardly be constructive without them in most cities. (8, 7)

7 See. (7)

8 Clio, for example, is found in bed here. (7)

14 They die over and over. (7)

15 Find it in havoc to be reconstructed. (7)

16 One of the brethren is almost the subject of a melodrama. (7)

17 I charm a sort of Abyssinian with it. (7)

18 Latin up-bringing, with two eyes at first. (7)

19 Flours. (7)

While we decide over the next months how to fill the void left by Frank W. Lewis's retirement, puzzlers will be able to enjoy some golden oldies. This was Frank's twenty-sixth puzzle for *The Nation* and appeared in the April 10, 1948, issue. You will note that his style here, while in keeping with his written "Ground Rules," is somewhat freer than in later puzzles. Also, certain clues evoke the mid-twentieth century.

Correction: The solution to No. 3194 contains a typo. 14 down should be *ague-cheek*, not *aguecheck*. The person who usually checks this was down with the ague.

SOLUTION TO PUZZLE NO. 3196

		F	I	R	S	T	P	E	R	S	O	N		
	B		M		A		O		E		R		T	
C	O	M	P	U	T	E	R		P	A	S	S	E	D
	G		O		I		E		O		O		L	
C	O	N	S	I	S	T		G	R	A	N	D	L	Y
	T		T		F		R		T				E	
B	A	K	E	R	Y		I	N	S	I	D	E	R	S
			R				N				E			
F	R	E	S	H	E	N	S		C	A	C	T	U	S
	O				M		E		A		A		N	
C	O	N	F	A	B	S		S	P	I	D	E	R	S
	T		L		A		C		I		E		E	
R	E	P	A	I	R		R	E	T	I	N	U	E	S
	D		I		G		O		A		C		L	
		F	L	O	O	R	W	A	L	K	E	R		

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